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THE MAKING OF THE CRIMINAL

BY

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C. E. B. R.

L. M. R.

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INTRODUCTION

IN a small volume published in 1905 one of the present writers tried to give an account of the lives of ordinary lads at work and play. Our present endeavour is to discuss the circumstances of those who are unhappy enough to be described in general terms as "Young Criminals," dealing more particularly with those who have passed the age of sixteen, and are technically known as "Juvenile-Adults."

For many years concern for the welfare of the young has been increasing, and innumerable agencies exist for improving the condition and brightening the prospects of unfortunate and refractory children. In nearly all of our cities a boy found destitute and homeless, or guilty of crime or misdemeanour, can at once be placed in a really excellent Home, and given every possible chance for the future. *But* he

must be under sixteen. Beyond that age neither the Certified Reformatories nor, with rare exceptions, the voluntary establishments will receive him, and the nearer he approaches to it the less readily will he gain admission to the latter. For the authorities of Homes supported only by the contributions of the charitable naturally hesitate to admit a boy for whom at the outset it appears probable that little can be done. There is an extraordinary lack of interest in youths of sixteen to twenty-one years who, for one reason or another, are confronted by the alternative, "Starve or Steal." Lads of solid character and sound upbringing will swim against the strongest current; it is not such we have to consider, but those who easily drift towards the turbid depths of criminality.

There can be no doubt that boys of this advanced age are exceedingly difficult to deal with. When boyhood is merging into manhood, when life's possibilities are rising before their imaginations, when strong new impulses for independence and self-realisation, impulses they have not learnt to analyse and control, are assailing them—at this most critical period they

may find themselves not only cut off from all that makes life dear to the more fortunate, but plunged in actual hopeless misery. Advice and interference, when forthcoming at all, are likely to be resented unless accompanied by much tact, and many a lad will rather sink in the mire than pull himself up by grasping a hand he regards with suspicion. The usual argument that at this age a youth is old enough to look after himself does not meet the case, for, even if he is, it is not easy to discover how he is to do so without money, home, friends, work, or decent clothes in which to seek work. Boys who are predisposed to a criminal career are, as a rule, backward and stunted in body and mind, and to regard them as adults because they are over sixteen is the height of stupidity.

What father considers his sixteen-year-old son at a public school as an adult? Yet the average public school boy at sixteen is in physique and reasoning power far ahead of the ill-nurtured boy of the slums, superficially "smart" and resourceful though the latter may be. It is also illogical and one-sided that a person who as a minor has not full civil rights should be subject to the same penalties as

those who may enjoy a fuller measure of citizenship.

As a result of our extraordinary method of dealing with young offenders, above all of the useless short sentences of imprisonment for such misdemeanours as Sleeping-out and Begging, the ranks of the criminal classes are being constantly recruited, and this very method, which ostensibly aims at repressing crime, is in itself a potent and fertile agent in the manufacture of adult criminals. Very few people realise how unjust, short-sighted, and futile it is—few, indeed, give a moment's thought to the subject at all. Yet it is one that concerns every man, woman, and child. For, to use the time-worn metaphor, we are all members of one body—the State, and just as a sore on our little finger makes our whole body less perfect, may indeed rob it of its joy in being, so every criminal is in the State a diseased member, whose existence affects the health and happiness of the rest. Not only is there the negative evil—the loss of a potential good and strength—but the positive—the constant menace to other individuals which the presence of such persons among them implies, the actual harm which they do, the cost of their

maintenance, above all the cost of elaborate protective and repressive machinery. What happiness for the community might be purchased at the cost of our prisons and police !

But it is to higher considerations than these that the simple facts appeal, and we wish, by pointing out some of these facts, to make the need for a revision of our present system more widely felt, and to indicate the lines on which it may confidently be attempted. After trying therefore to show how various types of youths sink to the verge of starvation and criminality, how they are treated, and with what results, we shall inquire how it may be possible to improve on our existing methods, and, after a brief discussion of the questions of Probation-Officers and Children's Courts, we shall proceed for the value of comparison to examine some of those adopted in our Colonies, on the Continent, and in America.

Such an inquiry should not fail to be interesting and suggestive, and a plain account of how these lads live should arouse a sympathy which needs only sufficient grasp of the reality to make it strong, and only sufficient strength to make it active. There is in most men that instinct

" which is one of the best heritages from boyhood, the instinct for fair-play, and for giving everybody "a chance." It is for this we would plead 'on these youths' behalf, and we think we can hold no better brief for them than by simply describing the social conditions which drag them to disaster. If interest be stimulated, and a more humane and reasonable way of treating them adopted partly as a result of what is said in the chapters of this book, the object with which it has been published will have been achieved.

CHARLES E. B. RUSSELL.

L. M. RIGBY.

CHAPTER I

THE YOUNG OUTCAST

MOST of us have seen the young outcast as he stood at the corner of a railway station, unkempt, dirty, ill-clad, often the picture of misery, yet often, strangely enough, talking and laughing merrily in the midst of a number of youths of a precisely similar type. Or more rarely perhaps we have met him late at night, when, as we were on our way home from a theatre or a concert, he has come up and in a furtive, pitiful way asked for a copper to help him to procure a night's lodging or a little food. "Another of those wretched beggars; they ought to be all locked up," or, "Poor fellow, at any rate I'll help him over to-night," are the general thoughts aroused by his appeal, the one resulting in the cold passing on, the other in the giving of that little assistance which may mean so much

to the recipient. Whichever impulse is followed, the previous train of reflection or vacuity of mind is promptly resumed, and no second thought is given to the phenomenon. It is not new, and it fails to impress us. There may have been a time when those of us who were not city bred felt a twinge as some realisation of contrast, some distant echo of a natural sense of justice flitted before our minds, only to be stifled with, "It's no fault of mine. Something ought to be done, but *I* can't do anything. It's no use worrying." And so we pass on, comfortably ignoring our individual responsibility.

Who is he—this wretched-looking lad of seventeen? Why should he be in the state he is? Is it his own fault, or is there some horrid social sore of which he is the product?

Let us follow a typical career of a boy of this class, of a boy who to all intents and purposes is an outcast, for he knows no home; no real relations or friends, and his very appearance and evident general unfitness for the daily toil and pressure of working-class life seem to alienate from him the sympathies of all. He is too clearly a loafer, a ne'er-do-well, one of the proverbial dogs with a bad name.

. In case after case close inquiry will lead to the discovery that such a boy is what he is largely as the result of his early environment. His parents, it will be found, are often only so in name. "Home" at the best means for him a small cottage with only two or three rooms; possibly his family lodge in one room in some dilapidated, dirty house in a mean, narrow street. Within, too often, is a slatternly, ill-favoured, idle, gossiping woman he knows for his mother, since it is she who from his infancy has pushed him, and smacked him, and kicked him, and shrieked at him, with raucous voice and foul words, but who has also tended him in several sicknesses, and varied neglect with kindness and rough affection in a manner strange and puzzling to the observer, but for the fact that the mother's instinct is always there. Many of her most fierce and wordy battles, indeed, have been with her equally fiery neighbours who have, as she thinks, maligned her son. Sprawling at the door are his brothers and sisters, dirty, frequently neglected, quarrelsome, often by their noisy wailing exciting outbursts of harsh invective from their elders. The father's presence, all too likely, adds a fresh element of discord or of fear,

and both parents are associated in his mind, along with happier memories, with scenes of debauchery, drunkenness, and brutality. Not that he deprecates such scenes, except in so far as they result in bodily injury to himself; on the contrary they may interest and divert him, for he is "seeing life." In other rooms of the same house, in some of the other houses in the same street, he knows that similar lives are lived, and similar streets are all around. It does not strike him as strange; it is his world.

Left to himself from the earliest possible age, the boy has attended school but irregularly, and has somehow, to his misfortune, escaped the meshes of the Industrial Schools Act, most probably owing to the frequent migrations of his parents from street to street and district to district to avoid the just demands of long-suffering landlords. With scanty clothes, and often still scantier meals, he has reached the age of fourteen, and ceased to fear the School Attendance Officer. He may, probably does, try at first to obtain employment, and succeeds only to find that no longer can he do just as he pleases. This restraint, so unaccustomed and unwelcome, he will not brook for long, and he soon gives up

his work, and tries his 'prentice hand at "catching odd jobs" as it is termed—carrying a box or parcel for a casual passer-by, holding horses' heads, pulling a handcart, etc. So long as the weekly tale of a few shillings is brought home, the parents are content. Month after month slips by, and the boy becomes more and more undisciplined. Now he rarely goes home at night, finding it more congenial to resort with his fellows to some very undesirable lodging-house, and spend what money he gets on himself—too little unfortunately on wholesome food, but much on those luxuries of his life, gambling, the cheap music-hall, and cigarettes. What little self-respect he may once have had is fast disappearing, and an absolute disregard for personal cleanliness and appearance distinguishes him. Work, regular work, he laughs at openly. Is it not pleasanter to do just what one pleases, and cannot he sometimes share in the excitement and spoils of some petty theft? If there is one biblical injunction which such a lad obeys to the letter it is "Take no thought for the morrow." Why should he? No ambition for a higher kind of life has ever been aroused in him; civilisation has passed him by and left him to

fight a losing battle, armed only with the primitive predatory instincts. Perhaps he sees some steady, hardworking, lonely lad living a life of dull monotony, only by constant effort and slavish toil earning the necessities of life, with little margin of time or money or physical energy for amusement. "Surely he with his reckless freedom is not in the main worse off! For at present he is generally happy enough as he is, far happier than he was as a small child, and if he looks to the future at all he is at least true Briton enough to rely on "muddling through somehow."

There is still, however, the "home" in the background—something that belongs to him and to which he belongs. Until one day when he chances to go to the accustomed house and finds his parents have gone, and left no indication of their whereabouts. Now indeed he is finally cast on his own resources; he has no claim on any one, no place of refuge when he is down on his luck and needs a night's shelter. "He does not take any trouble to find his family, for he feels they have played him a shabby trick, and is offended, and in his way too proud to show that he minds their disappearance. The decent

people in the same street say he is lazy—he probably is; none will help him, and he goes back to the busy street to pick up his living as best he can—an outcast.

Time passes, and the boy is now a young fellow of eighteen, acquainted with every loose way of earning a living. Has he been helped in any way? Is any hand stretched out to stay his downward course? Alas! no; for the lads' clubs, brigades, etc., which attract healthy-minded youths have no hold upon him. He will not submit to their rules, his clothes are so very poor that he does not like, as he says, "to show himself up" by appearing in them, especially if they are of a kind only affected by the professional loafer or "ike"; he would have an uncomfortable sense of inferiority amongst the honest working lads he would meet there, he is not in that set, and would be laughed at by his fellow-pariahs if he attempted to enter it. So nothing brings him in contact with those who would help him if they could.

The next step is the first acquaintance with the police-court. The thought is not new to him; he has feared it, and imagined all kinds of horrors. So far he has managed to keep clear of

it, but to-day no one has wanted the wretched-looking youth who has asked to carry a parcel; it has been raining hard, and under the shelter of an umbrella the hurrying foot-passenger altogether fails to notice the knots of human misery at many a busy street corner. The hours have slipped by; it is midnight and the streets are empty. Tired out after prowling about the streets for hours, the boy perhaps lays his weary body down on a dark doorstep, or steals into some back yard to try and find shelter and rest in a shed. What else can he do? He knows that if he wanders all night the law cannot descend upon him, but he must have rest. He sinks to sleep, but long before morning comes the policeman on his beat, discovers him, wakes him up, and takes him to the station to be charged with "sleeping out," or being on "enclosed premises," as the case may be. On this first occasion he will probably be simply cautioned and dismissed, but a sentence of seven or fourteen days' imprisonment commonly follows a second appearance.

The police, it may be said in passing, are usually most kind to these boys when they are not known as bad characters. They frequently

procure food for them, and policemen often pay their lodging fee. We have heard many an officer say, "It hurts me to see a lad in the cells the first time for 'sleeping out.'" It would be no real kindness for the police to be more lax, for you cannot cure a social sore by drawing a blind over it. The police, by the performance of their duty, keep the public informed of the great mass of misery around them, and it is well that this should be so.

- The period of imprisonment over, the lad leaves the gaol more of an outcast than ever, and as a rule hardened and considerably the worse in character. Nothing has been done by the civil authorities to see if he can be set on his feet; his clothes are none the better for the process of prison disinfecting; and without a coin in his pocket he leaves the gate. The Discharged Prisoners' Aid Society and other organisations do as much as they can, and it is not a little, for these youths, but practically limit their help to assisting them *on their discharge*, whereas what they require is constant supervision, care and incentive to work for, say, twelve months.¹ A boy who has been loafing

¹ In Germany, employés of the Discharged Prisoners' Aid Society

all his life will not suddenly take to work even if he has been given a good start. He inevitably drifts back to the low lodging-house or a still lower one, and resumes his previous manner of life without any outward difference. But within him is a great difference; the bugbear of his boyhood has been unmasked; the prison has lost all its terrors. The work in it was easy, the meals regular if scanty, the cell not too uncomfortable, at any rate better than a door-step. Other lads, his friends now, have been there too, think nothing of it, and deride his scruples; there is nothing to be ashamed of. It is to the feeling of shame, one of the finest, most delicate and valuable feelings to which appeal might be made, that this system of imprisonment for minor offences is most ruthlessly fatal. "Suivons la nature, qui a donné aux hommes la honte comme leur fléau; et que la plus grande partie de la peine soit l'infamie de la souffrir," wrote Montesquieu, more than 150 years ago.¹ And it is with something like despair at the obtuseness of our legislators that we may read the following

visit annually each prisoner assisted, paying special attention to the younger cases. (*Seeking and Saving*, April 1900.)

¹ *De l'Esprit des Lois*, Book VI. chap. xii.

sentences in a Special Report on Juvenile Depraveds issued by the Commissioners of Prisons.

There is another cause of the offences of youth which most powerfully contributes to strengthen the vicious propensities which they derive from every other source. We refer to the corruption produced by imprisonment. It is painful to reflect that the remedy provided by law for the correction of the offender should only tend to render him more criminal. Of many children whom we have seen in prison we hesitate not to affirm that absolute impunity would have been far less mischievous than the effects of their confinement.

The first entrance of a boy into prison is almost invariably accompanied with feelings of alarm. No advantage, however, is taken of this favourable state of mind to inculcate good impressions.

The foundation of every virtuous feeling becomes gradually destroyed. He enters the prison a child in years and not unfrequently also in crime. . . .

Those words were written, not this year, nor last year, but seventy years ago, in 1836.¹

• So gradually he sinks still lower. He probably takes to frequenting race-meetings, using there all his wits, sharpened alas! in only one direction, to get the better of his fellows, and

¹ See Appendix, pp. 333-334, for more recent opinions.

by roguery and fraud to obtain the money he so quickly spends in evil ways among gamblers, drunkards, and vile women. Year after year he becomes a greater charge upon the State, sometimes in the workhouse, more often in the prison, and now for more serious offences. He has rapidly become one of that class most aptly termed "unemployable," a loafer, a human parasite, a source of misery to himself and of danger to his fellows.

Such is the outcast youth of our great cities, and such his fate, the victim of his parents' neglect and of the wretched environment in which he is placed. Yet with other methods of treatment than those he met with when first brought before the magistrates a result entirely different might have, indeed most probably would have, been obtained. As things now are, his future is in a sense so hopeless because he was not a worse boy, because he did not flagrantly transgress the law at an earlier age. Had he been guilty of some act which would have secured his arrest some two years earlier, he would have been sent to a Reformatory, and trained to be far other than the human derelict that he is. Had the catastrophe occurred yet

earlier, he would have been sent to an Industrial School, and had a still better chance of equipment for life. Surely that reflection is a very severe commentary on our system. In many other countries—so far is the land of Howard from leading the van in these matters—age would not so early have proved a disability. In most of the United States of America he would have been regarded as a possibly hopeful case up to the age of thirty. He would have been sent to a Reformatory for a period only determined within certain limits, in Massachusetts, *e.g.*, not to exceed two years for minor offences. He would have been confined “primarily not for doing what he did, but for being what he was,” and for having shown his “unfitness to be free.” Healthy, reformatory influences of every kind, including recreation, would have been brought to bear on him, he would have been taught to work at whatever he showed most aptitude for, and release would have depended on his being able to show his fitness for it. He would thus have had every inducement to qualify himself by good conduct for independence and citizenship. Only if there were a very strong presumption that his release would be accompanied by

no danger to himself and society would it have been unconditional. When the managers of the Reformatory considered that the time was ripe, and satisfactory employment had been found, he would most probably have been released "on parole," thus being enabled to find his footing in society before being cast adrift with complete liberty. There would have been no difficulty in finding work for him, because his dismissal from the Reformatory would have been regarded as a guarantee of his fitness for social life. His employer would have had to certify that he was a suitable person to look after him until his final release, and he would have had to report himself every month to the superintendent of the institution he had left. He would still have remained in its legal custody, and would have been liable to be recalled to it at any time before the expiry of the maximum term of his sentence.

In Hungary such a lad as our outcast is eligible for admission to a Reformatory, up to any age, provided he is not detained after twenty. Here too he is not treated as a prisoner, but as a human being in need of moral and spiritual medicine and favourable influences. He is carefully taught a trade or some outdoor

work, and encouraged to diligence by wages and rewards. He is released only when he has given evidence of ability to do well, and his release may be only conditional.

In Germany it is unlikely that the boy would have reached a very advanced age before being discovered as a fit subject for the application of the law for "Guardianship Education," or "Upbringing under Care." In that country the authorities are cognisant of every family and individual, their circumstances and movements. Honorary guardians are appointed to visit and take an interest in small groups of poor households in the cities and towns, so our boy's evil environment could not easily have escaped notice. By the law which came into operation in 1901 a minor up to the age of eighteen, if his surroundings are such as to endanger his physical or moral welfare, must be removed from them. Even if he were allowed to grow up under his parents' roof, the reckless lodging-house life we have described would be impossible. When it is decreed that he needs "care," the boy is at first placed in an institution to accustom him to discipline and order, and teach him to work, especially at agricultural pursuits. As soon as

it is judged expedient he is boarded out in a suitable family, under surveillance of the director of the Home he has left and of a special guardian—not an official. Thus he may learn also the meaning of home-life. If he is released from the operation of the law, which need not be before the age of twenty-one, it is conditionally, unless all possibility of renewed depravation seems excluded. Throughout he need have nothing to do with the police—all supervision is exercised by his guardian, who may become his best friend.

And not in foreign countries only, but in some of our own colonies he would have fared better than here. In Victoria, *e.g.*, he might have been committed to the care of the Department for Neglected Children up to the age of seventeen, or even transferred to it from gaol up to the age of eighteen. He would then have been consigned for a time to one of the small farm-reformatories of the colony, and as soon as possible boarded out conditionally with a family.

There are, in fact, few countries where hope would have been cut off so early, so completely, as here in England, few countries where the outcast lad would have run a greater chance of becoming the criminal man.

CHAPTER II

ORPHANED AT SEVENTEEN

It is not only the youths who have become practically social *outcasts* as the result of their upbringing and environment who develop into loafers and habitual idlers, and go to fill our workhouses and prisons.

Another class of lads perhaps even more deserving of pity,—for they are the creatures of circumstances over which they have no control, the victims of what seems a cruel fortune—is composed of the sons of honest working men, sometimes of men who have filled quite important positions in their time. These lads have always had a decent home, have had at any rate some supervision, have passed their Sixth or Seventh Standard at the Elementary School, have enjoyed the comfort of a Sunday suit, and probably been regular attendants at a Sunday

school. Except quite occasionally, they have felt none of the hardships involved in the actual struggle to get a meal or a resting-place for the night.

When a typical boy of this class reaches his fifteenth or sixteenth year perhaps one parent dies, and then a year later possibly the other also. He is left an orphan, very likely with several younger brothers and sisters, none of them old enough to work. But he has a good situation himself, and determines to keep on the home. He does so for a time, then suddenly the most crushing blow of all falls: for one reason or another he loses his work, and as he has only been able to "pay his way" as he went along, and has found it impossible to save, he is soon in a deplorable plight. Work is not always easy to find, and little mouths want feeding, so gradually the household effects go to pay the rent and buy food, until the worst day of all comes, and the home has to be broken up. Neighbours have helped, as they always do, in a way surprising to those who have little knowledge of working-class homes, and speaking volumes for an innate goodness of heart. Chums also have done their best, with a wealth of unselfishness

far less rare than in circles more richly endowed with this world's goods. But it has all been of no avail. A married elder brother or sister, or some relative or friend of the family, may take one or more of the little ones, others may go to voluntary Homes or to the Union, and the poor fellow, is left homeless and penniless to seek his fortune alone.

He may start on his new career with a brave heart; he has only himself to provide for now, and after supporting a family the task looks comparatively easy. But the first day goes by and neither work nor money can he get, and the first night is perforce spent wandering the streets, weary in body and sick at heart. The second day, and the second night are like the first. Then perhaps he gets a day's job, and a square meal and a night in bed are his once again—a bed in a lodging-house which but a short while before he would have regarded with repulsion and a sense of losing caste. But the old smartness is leaving him, his clothes are growing rapidly shabbier, and he himself is unconsciously beginning to acquire many of the habits of the street loafer and idler.

• A few weeks of this life, and the urgent

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need for fresh boots impels him to beg, and brings him by chance under the notice of the law. He too will probably go unpunished the first time, and may be helped by the police-court missionary so far as it is in his power to help; but a second summons inevitably means imprisonment for seven or fourteen days. Imprisonment for what? For no criminal offence—for nothing but sheer misfortune. The lad feels this; he goes to prison conscious that he has done no serious wrong, and with a sore sense of injustice he naturally resents it. He thinks it does not matter now what he does; he might just as well be punished, if punished he must be, for doing something really wrong. He soon observes that some of the more lucrative, if less honest, means of gaining a precarious livelihood are less open to detection than begging. And unless he is lucky enough to find some kindly hand stretched out to lift him, he sinks rapidly downward to the level of the outcast lad already described.

Here, then, we have an example not merely of potentially good, but actually good material marred, wasted, wantonly thrown on the human rubbish heap. And why? The police, the

magistrates, have done their duty ; it is nobody's fault in particular, but once more it is the *system* that is wrong, the system which decrees that misfortune shall be a crime.

For youths of this age few, very few, asylums exist. Their younger brothers may find good homes provided by voluntary organisations or by the State, but this boy can only "live rough" (*i.e.* sleep out) or resort to the shelters usually frequented by destitute *men*, places where he may hear and see and learn much that no decent lad or man should hear and see and learn, where he may have to reconcile himself to degrading conditions of publicity and often of uncleanness, where his whole moral fibre, in a frame weakened by exposure and insufficient food, will almost certainly deteriorate. The "unemployable" will mock at his endeavours to get work—sour grapes to them—and the cynicism of the experienced, the constant gibes and sneers at goodness, will tell on him in time.

Imprisonment seems cruel treatment for a boy of seventeen, who, if thorough inquiry be made, can be shown not only to have nothing against him, but much for him in the record of his past life. But full inquiry is *not* made,

it is nobody's business to make it; before the magistrates he is only a "case" to be hurried over among numberless others, for there is a heavy list, and time presses. And when he leaves the prison probably nothing is done to find him a home, employment, the opportunity of living a better life. If on a first conviction the authorities undertook to find work for such lads—not a very difficult task—and to defray the cost of their first week's lodging, few of them would fail to develop into really decent working men. The outlay would in many cases be repaid by them later on; but if it were not, it would be infinitesimal compared with the cost to the State of maintaining an idle or vicious parasite for twenty, thirty, fifty years.

It may be asked, and not without justice, why such a lad does not enlist. It is of course possible that he is not old enough or physically not up to the standard; but if he is, he may through ignorance or prejudice be unwilling, or lacking in strength of purpose, to take so irtraceable a step. The loafing life of discomfort and starvation will have begotten irresolution and a general slackness and listlessness. He hopes soon to tide over the spell of bad luck,

and that better days will shortly come without resorting to heroic measures ; then the fatal step which leads to his arrest is inadvertently taken, and he is on the downward course ere he knows it.

Under many colonial and foreign systems, *e.g.* the American, he would have been pulled up before he had gone far on that course. When first arrested, inquiry must have been made to find out if he were a suitable subject for a Reformatory, and, the facts brought to light, work would have been obtained, and he would have been released forthwith, but kept for some months under the supervision of a probation-officer. Had he been judged sufficiently abandoned to be committed to a Reformatory, the healthy life there would soon have recalled the upright, industrious lad he was before calamity overtook him ; and after the minimum period of detention he would have been out "on parole" with a comfortable home and suitable employment. But in some countries his troubles would have been cut short in their initial stages. Had he been a German he might, on first losing his work, have applied at a municipal labour bureau, and, being a steady lad, there would have been little doubt of success.

CHAPTER III

THE LAPSED INDUSTRIAL OR REFORMATORY SCHOOL BOY

A THIRD distinct class of recruit for the criminal ranks is formed by boys who in their earlier years have been inmates of Industrial Training Ships, Schools, or Reformatories. They are generally boys whose home surroundings have been deplorably bad, and who, fortunately for themselves, have early in life come under the notice of the authorities, and been "put away," as they call it, for a term of years—until the age of sixteen in an Industrial School, or eighteen in a Reformatory. On an average, fully three out of four boys settle down to steady work and a decent life when they leave these institutions, and many even of the boys we are about to describe have probably behaved well and made steady progress while there.

But the time of release draws near and parents begin to inquire after them, and to urge that they be restored to them when their time is up—often to the same sordid surroundings, and the companionship of people who recognise few, if any, moral restraints. In some cases the lad has to be returned to his home, where for a time he keeps steady, clean, and well conducted; but the influence of past discipline begins to wear off, and if there is not very active and effectual supervision on the part of the School authorities (and this is sometimes almost impossible) he drifts back to the kind of life he led as a child.

We have already pointed out how critical and determining are the years from sixteen to twenty-one. A boy released from an Industrial School or Reformatory, if he is not placed in a favourable environment or in some way protected and restrained, runs even greater risk than others. For the young boys in Industrial Schools, at any rate, it may be said that life in an institution, though it may have its own special dangers, is on the whole a sheltered one; the steady routine leaves little outlet for the naturally somewhat lawless tendencies of boyhood, and to

many of the temptations of ordinary life the inmate is unexposed. He has to obey; he has to work; and though for self-reliance and personal initiative there are not the opportunities afforded by normal home life, the habits of discipline and industry ingrained through a course of years are not easily lost, provided the lad be not replaced amid evil surroundings. There the unwonted sense of freedom, the unchecked power to gratify suppressed instincts for excitement and amusement—natural instincts for the legitimate satisfaction of which there is far too little opportunity in city lads' lives—may easily unbalance him, make him fall an easy prey to unwonted temptations, and in a few months undo the work of years. And so, for one petty misdemeanour or another, he is soon in the hands of the police and in gaol, and begins to slip rapidly down the easy descent to a regular life of crime.

It must not be supposed, however, that the lads' homes are always undesirable. In some cases, while the lad has been away the whole character of the home has changed,—one of the parents may have died—one who was the source of all the trouble,—or a complete change for the

better may have come to both, and the home have become excellent in every way:

We know at present five lads who have recently returned home from an Industrial Training Ship to Manchester, all of whom are doing well, and all of whose homes are entirely satisfactory.

It is only in cases where the home is distinctly bad that it is so unfortunate when there is no alternative but to send the lad back to it. It would be well if every home to which it is sought to have a lad returned might be inspected and fully reported upon before the return takes place; and, should the report be unfavourable, power be given to place the lad in a decent home and at work some distance from his parents.

These youths nearly always retain something of their old School training. They are usually more polite than others, more active, hold themselves better, and they know what obedience means. If they can only be entirely removed from their home environment they will probably again do well. The difficulty is to get them away. Of Industrial School children who go back to their homes, only one-quarter as many

turn out well as of those otherwise disposed of; and in one School where seventy per cent did well, not one did so who returned to relatives.¹

- It would be far the best plan, when an old Industrial School or Reformatory boy is brought before the magistrates, to send him away to an Industrial School Old Boys' Home in some far-distant part of the country where work can be found for him, and compel him to live in the Home for at least a year while working outside.

Many lads of this class have been sent to Training Ships, which are excellent if they really like the sea. But in our experience it often happens that a boy goes one voyage and one only, draws his money on reaching England, and hastens home determined to go to sea no more. With no real training for any other industry, he is then in grave danger of getting on the streets, though many find work in foundries and elsewhere.

- The boys are distinctly affected by the methods of supervision or control adopted by the School authorities. For some time past large numbers of the destitute lads over seven-

¹ *Journal of the Royal Statistical Society*, June 1900. "The Treatment of Juvenile Offenders." Rosa M. Barrett.

teen in Manchester, and practically all lads under twenty-one discharged from Strangeways Prison have come before us, and it is remarkable how many of these have been inmates of certain Industrial Schools and Reformatories, whilst from others in the same districts hardly any appear to drift into the street loafer and criminal classes. There are apparently two main reasons for this :—

• It may be taken for granted that a lad of eighteen can hardly maintain himself decently on a less sum than 10s. a week, and when a boy leaving a School or Reformatory is allowed to go home, and work is found for him at, say, only 7s. 6d. a week, it is not surprising if he speedily gives it up. Thereupon he is soon told that if he cannot find work he must leave home, as his people cannot afford to keep him ; a statement generally literally true, though there is probably often little compunction about turning out a son who has been absent from home for a great part of his life. So the lad, by very rapid steps indeed, becomes an habitué of common lodging-houses and a seeker after odd jobs in the streets. Managers of Schools and Reformatories should not allow a boy to go home unless they can

provide him with work at a minimum wage of 10s. If such a boy be placed in an Industrial School Old Boys' Home when he leaves the School, though he only obtains 7s. 6d. a week at first, he does not get into difficulties, and one of the main causes of backsliding ceases to exist. We would plead as strongly as possible for the extension of Industrial School and Reformatory Old Boys' Homes throughout the country.

The second reason for the lapse of a lad is the want in the case of some Schools of a close supervision of the boys on leaving. Some School authorities regularly visit the homes of those with whom old boys are placed, and are most particular in seeing that a decently high standard of living is maintained. They also keep a close watch on the boy himself, and pull him up if anything seems to be going wrong, in fact proceed very much as does the probation-officer in American cities. Whilst other Schools, through pressure of work or a lack of comprehension of the value of this part of their influence, seem singularly lax, with the result that more of their boys become regular street loafers and occupants of our prisons.

The expenditure on Industrial Schools and

Reformatories amounts to over half a million per annum,¹ and it is estimated that it costs from £13 to £28 a year to maintain a boy in an Industrial School, or £32 on a Training Ship.² As he may be there five years, often more, sometimes even ten, we may take £100 as a fair average for the cost of his training. • Nothing could be more unbusinesslike than to grudge the small additional expenditure which makes the original outlay a paying investment, and it is evident that the actual financial loss to the State entailed by a penny-wise and pound-foolish policy is very great when a lad is allowed to lapse for want of proper supervision on leaving School, or for want of sufficient care in finding him employment. •

What the neglect of one individual may cost a country is well exemplified in the history, recently narrated at a conference at Breslau, of a Swiss family. Its genealogy was traced back to the middle of the seventeenth century, and it was found that in the ten years 1885-95 descendants of a common ancestor had cost their small native parish 14,000 francs, or £560 !

¹ Morrison, *Juvenile Offenders*.

² *Journal of the Statistical Society*, June 1900.

To sum up, what seems required to make our Reformatory and Industrial School system more water-tight is more efficient means for disposal and for supervision. We must accept the fact that the children committed to these Schools are a special class who need the shelter of an institution, and for whom the advantages of the boarding-out system are not available. Theoretically, of course, in dealing with children the boarding-out system has much to recommend it; but to compare the methods found expedient in a thinly-populated colony or an agricultural country with those of a country whose social conditions are completely different, though suggestive, is of little practical use. Nevertheless, it is right that we should make our Industrial School system as like a system of boarding-out as we can, and the provision for licensing contained in the Industrial Schools Acts affords the first part of the machinery, though the rest of it is still incomplete. How can we supplement it? It is suggested first of all that the system of Working Boys' Homes in connection with Industrial Schools can be largely developed; and further, use can be made of Working Boys' Homes not directly associated

with Schools, though the latter can hardly be expected in the circumstances to be as effective as the former.

Next, the placing out of boys from the Schools can be systematised. They might be placed out in different parts of the country in little colonies, each with its agent, whose business it should be to act as the School's representative, and to continue the same paternal interest in every boy under his charge as is taken by a good superintendent in the case of boys actually in the School or placed out in its vicinity. An illustration of this kind of agency will be found in that established by the London County Council in South Wales for the benefit of London boys placed out in farm service from the Council's Industrial Schools. Agencies of the same kind might be established with advantage in industrial and in mining centres. It is true that the authorities of few Schools deal, as does the London County Council, with a sufficient number of boys to make it possible to have such an agent, but there is no reason why Schools in a particular district should not combine for the purpose. It is impossible for a superintendent himself to keep effectively in touch with boys at a distance.

He can keep very effectively in touch with the agent, and through him with his boys.

Finally, as is suggested in another chapter, there seems a good prospect of the establishment before long of a system of probation-officers in this country. Such probation-officers as are selected from the point of view of their capacity for finding boys work and for keeping them at work—and it may be hoped that there will be many such—will prove invaluable agents for the managers of Reformatory and Industrial Schools. It is not too much to say that every superintendent of a Working Boys' Home ought to be constituted a probation-officer, and one incidental advantage of this may be pointed out: a boy from an Industrial School placed in his charge can be admitted to his Home or Club, and no one, save the superintendent and the boy himself, need know that he is under probation. The case of the Reformatory boy is more difficult than that of the Industrial School boy. The Reformatory lad, as a rule, is not under detention for so long a period. He is a tougher subject to begin with, early habits have become more ingrained, and he is often a young man when he leaves. Nevertheless, something can be attempted for him as

for the younger Industrial School boy, and the way will be smoothed if effect can be given to a recommendation of H.M. Inspector of Reformatory and Industrial Schools, who wrote as follows in his report for the year 1904 :—

• It is a pity that when by the Act of 1890 the limit of age for detention in a Reformatory was reduced to nineteen years, a power of supervision for two years later was not retained. Such a power of supervision until eighteen was given to managers of Industrial Schools by the Act of 1894, and it would be of equal service to those managers of Reformatory Schools who are ready to carry out their responsibilities with bull-dog tenacity.

It may be added that magistrates and public opinion ought to support managers in any resolute effort to remove a child permanently from an environment or from associations which led to his original committal to a School. It is heart-breaking for a conscientious manager or superintendent when, for endeavouring to carry out the law strictly and to give full rein to his own humane instincts in favour of a child, he is rewarded by being held up to obloquy and taken to task as an unnatural monster. And especial sympathy should be extended to the Roman

Catholic authorities. They have in their charge more than their share of the class of the population under review, and as a community they are not wealthy. Many are Irish, and for one or even two generations an Irishman retains to the full his racial characteristics, many of them fine characteristics, but such as do not find their proper field in an English industrial community. There is not, at any rate, at the command of the Roman Catholic authorities the same opportunity for placing out children, whether in town or country, in working-class households of their own faith as is enjoyed by others. This is probably the reason why more is done in the way of emigration by Roman Catholic than by Protestant Schools. But still, large numbers of their children are not, and cannot be, disposed of in this way; all the more need, therefore, for them to bring up to the highest state of efficiency their machinery for home disposal and supervision.

A consideration of the principles and practice adopted abroad will be found to lend support to the above suggestions. In other countries, lads leaving Schools of this nature remain wards of the State, and may be kept under supervision

until their majority. When a German child comes under the law for "Guardianship Education" (*Fürsorgeerziehungsgesetz*),¹ he remains so until he attains the age of twenty-one, the parents forfeiting all rights. If his character has been reformed in an institution, or in a family with which he has been boarded out, he may, however, be restored to his own family, provided that the circumstances that brought about his depravation have been altered. But he is equally under the supervision of a patron or guardian, and a ward of the State, and can be again removed at any time if this be judged expedient. Experience has shown that returning the wards to their own homes is rarely attended with success.² Although the law intervenes so forcibly in the relations of parents and children, whole or part payment by the parents or other responsible persons is strictly enforced, in order that their sense of responsibility may be maintained, and that they may not lightly part with their children.

In France also, parents guilty of neglect,

¹ *Statistik über die Fürsorgeerziehung Minderjähriger für das Etatsjahr, 1901.* Berlin, 1903. See Appendix.
² *Ibid.* 1904. Berlin, 1906.

habitually drunk, notoriously immoral, in any way likely to endanger the health, security, or morality of their children, or unable to control them, forfeit all rights, and the children become wards of the body called "l'Assistance Publique" until they attain their majority. In our Industrial Schools parents' visits are allowed once every two or three months, and after a month of very good conduct boys are allowed to go to their homes on a few days' holiday, when these are really good and desirable in every way. But in France it is in many cases judged expedient to keep the parents in total ignorance of their children's whereabouts, and they are merely informed periodically of their welfare. As in Germany, they are forced to contribute to their maintenance.¹

In Hungary, Reformatory boys are liberated without further surveillance at twenty (very few would be kept in an institution up to this age, unless approaching it on their committal), or if they have only been sentenced to a definite period of detention, or sent, as 35 per cent

¹ St. Louis Exhibition, 1904, Section des Enfants soumis à l'éducation pénitentiaire. Gaston Drucker, *La Protection des Enfants*, 1894.

are, at the request of parents or guardians. Others are liberated when their conduct justifies confidence, the largest number after two or three years' detention, and for each of these, when placed at too great a distance from an institution for its officials to keep in touch with them, a patron or guardian is appointed. He is made acquainted with all the antecedents of his ward, and his function is to advise, exhort, and support him in his efforts to live a moral and industrious life, to encourage him in patience and self-denial, and, if necessary, to protect him against persons likely to do him harm. From time to time he has to make a report to the School authorities, who are thus kept informed of the conduct of all their old pupils.¹

In Belgium, similarly, a child under sixteen who has been placed in an "Ecole de Bienfaisance," or a beggar under eighteen placed in an "Ecole de Réforme," remains under State control till his majority.²

In these countries, then, and in our Australian colonies, parental authority being forfeited for

¹ *La Lutte contre la Criminalité des Mineurs en Hongrie.* Dr. Béla Kőrösi et Dr. Etienne Ládai. Budapest, 1905. See Appendix.

² *Journal of the Statistical Society*, June 1900.

good and all, a boy cannot, as with us, be restored at the critical age of sixteen or eighteen to the vicious environment from which he was saved as a child. Not that he is kept any the longer in an institution. On the contrary, as soon as he seems likely to conduct himself well, he is boarded out with a family (in many instances while still a child attending school), and suitable work procured for him; but he is always liable to be recalled if his behaviour is unsatisfactory, or if it is considered advisable to seek a fresh home for him.

It is noteworthy that the system, which gives good results in France to-day, of laying the foundation of a sound and moral education in an institution (not a prison), and then handing the boy or girl over to the care of a private person, was introduced there in the year 1545. This singularly humane method was, however, abandoned in 1568, and not revived in any form till 1832, when young prisoners were apprenticed on their release.¹

¹ St. Louis Exhibition, 1904.

CHAPTER IV

TURNED OUT OF HOME

WE have now three outstanding types; there is a fourth, and by no means a small group of youths for whom the risks of drifting into a life of criminality are increased by the singularly short-sighted methods of our system of dealing with young persons charged with offences under the Vagrancy Act.

The typical lad of this class differs very materially from the others we have dealt with. He is frequently a member of a decent hard-working family, a family, however, in which parental discipline has never been very conspicuous, and in which a strong affection has led to the overlooking of little delinquencies in the child. He has in fact been "spoilt." Decently clad and of good appearance, he has easily found work on leaving school, but from the very

beginning has been a bad time-keeper. His attendance record at school was not good; he was allowed to stay away on every slight pretext; and now a fancied ailment keeps him from work one day, sheer laziness leads him to remain in bed another. He loses his first situation, and equally rapidly others which have succeeded it, between each probably spending a week or two idling at home, obtaining as best he can those essentials of happiness, his "tabs" and the coppers for the music-hall. He has found little difficulty in getting a second, a third situation, and expecting to be equally lucky all through his life, does not worry when a fourth or a fifth does not immediately turn up. Time goes on, and although he bears all the outward signs of respectability, his character steadily deteriorates. He is not a worker—the one thing he needs to be if he is ever to be of any use to those about him.

• He is seventeen or eighteen when suddenly disaster comes upon the family: the father or the mother dies, and a greater responsibility is at once thrown upon shoulders altogether unprepared to bear it. His old life goes on, but often enough now the surviving parent does not regard

his inveterate idleness with the same lenient eyes. He is told that if he does not get work he must "clear out," a threat of which he hardly realises the import, until at last he has strained the endurance of his relatives to breaking-point, and coming home one night with the old tale of not being able to find work, he is sharply told that he must go. Usually without protest, silently admitting the justice of the sentence, he steps over the familiar threshold out into the street, to seek his night's lodging where and how he hardly knows. Sometimes there is no real intention of turning him out, but in a fit of ill-temper and exasperation harsh words will be uttered, and the boy, stirred to resentment, feeling he is loved no longer, has gone for good before the father or mother has realised what has happened.

We well remember some years ago meeting a boy just after he had been turned out—it was after eleven o'clock at night. "Where are you going, Albert?" "Oh, I don't know," was the answer; "they have turned me out because I have got no work [really he was a thorough idler]; I think I am going to sleep in a railway-waggon off Fairfield Street, or under one of the arches." Such a boy is often not actually bad

at bottom, and often enough a few nights of roughing it causes him to look energetically for work, get it, and go back once more to his home.

But a lad with a more independent spirit thinks he will leave, let us say, Manchester, and walk to Liverpool, where he thinks he is sure to get a ship; as if master-mariners, unlike other employers, were always ready to snap up youths with no technical knowledge, and receive boys with no experience of the sea who come to offer their services for voyages long or short. It is quite extraordinary how great is the number of youths, big clumsy fellows who have failed in many occupations, who apply to be sent to sea, labouring under a vague delusion that there, at last, they will succeed. But they are not keen about the Royal Navy; they shirk the discipline and the long period of service. One voyage, or two at most, they think will satisfy them, and then they will find "work."

Our lad has decided to go to Liverpool; he has tramped it, has begun to "live rough," has probably had to beg a little for food; and now, on arrival, he cannot find a ship. Employment is as impossible to get as ever, try all he will.

A day or two more of continued failure, and he, like the boys of the other types we have named, comes under the notice of the police and the magistrates, and probably not for the first, but for the second offence of sleeping out or begging, is sent to prison, and emerges to swell in time the numbers of the outcast and the criminal.

A boy may have to leave his home, not because he has no work, but because, having work, he squanders all he earns on amusements and indulgences, mainly on betting and gambling, and gives nothing towards the family budget. We have seen a lad of fifteen who, on these grounds, had been turned out, being, as he said, "not the right sort of boy for Father." As the six shillings he earned were insufficient for his decent support, especially with such expensive habits, he had inevitably sunk still lower, lost his work, and gone on the street. Too old to enter an Industrial School, it was only with difficulty he gained admission to a voluntary Home. If this lad had been a year older his prospects would have been bad indeed.

But there is a misfortune which is frequently all-powerful in driving a really decent youth from his home, and that is the remarriage of his

widowed father or mother. A big boy of seventeen who has to adapt himself to a step-parent is driven from home when out of employment, not so often by direct order as by nagging and constant hints from the step-parent that he is not wanted if he cannot work, that he should be ashamed to eat the children's bread, and the like—words that bite and sting, and whose memory is so enduring that many a boy turned from a home into which a step-parent has come never re-enters it. He may be a lad of excellent character, good in every way, but by himself the struggle is a hard one, and his effort to find work brings only disappointment and discouragement. Yet he keeps absolutely honest and straight, only to find at last that misfortune leads him to a gaol, just as a dishonest life would have done. So he too, embittered by the apparent injustice of life, may be driven to join the army constantly recruited from the ranks of the unfortunate who find prison the cold comfort society has for all their pains.

It will have been observed that for the first offence the delinquent commonly goes unpunished. But what, in the name of reason, is the use of turning a lad away from a police

court without making any inquiry into the circumstances which brought him there, or any attempt to improve those circumstances? Naturally he continues to seek his living in exactly the same way as he did before, having only added to his stock of good intentions that of not being caught so easily a second time; and naturally the same conditions produce the same result—arrest, followed this time by imprisonment. It is the *first time* that he comes before a magistrate that he should be pulled up and helped. Why wait till the second? Though, as the measures then taken are wrong, it is just as well they are postponed. *If* they were right, the delay might be absolutely fatal, for during the weeks, or it may be months, that a boy succeeds in eluding the police, he is becoming confirmed in his loafing habits, and the hope of regeneration is ebbing daily. As a general rule, the longer a lad has been on the streets, the shorter time will he stick to any work that may be found for him. From experience we find that the boy who has led a loafing life for three weeks only can be restored to industrial life at once. But after two or three months of idleness it is difficult to make him change his habits;

After six months it is almost impossible. It is therefore of absolutely vital importance to check him at the first available opportunity. In New Zealand and many of the American States this has been recognised. Amongst the duties of the State-agent, or probation-officer, is that of attending the trials of first offenders and showing cause, if he can, why they should not be imprisoned. This, of course, entails a preliminary investigation of their circumstances, and in such cases as we are considering they are then placed for a definite period under the charge of the probation-officer, who finds them work, and exercises supervision over them, causing them to report themselves to him at frequent intervals—in New Zealand monthly. One of the most valuable features of this system seems to be the opportunity it affords an individual of strong character, sympathy and insight of gaining a personal influence over his or her charges, an influence of a nature often hitherto unknown in the life of the boy or girl, the man or woman, who experiences it.

Surely, with regard to the typical lad we have been considering, careful inquiry in the first instance, even though it involve much

trouble and some expense; would lead to better results. As a rule the parent, or even step-parent, if communicated with, would gladly take him back, as we have proved in not one but many cases. The hasty word of expulsion has been often repented, and his complete disappearance is a source of deep anxiety, the relief of which by his restoration evokes heart-felt gratitude. After the bitter lesson he has learned he would, in all probability, make a determined fresh start, and a more friendly feeling would be established in the home. At any rate, imprisonment is the most futile of all measures to take in such cases.

What looking for work may mean to respectable but homeless lads, the following perfectly true narrative taken from the lips of one of them will show. When we first saw him he was a manly fellow of some eighteen years, with eyes that looked straight into one's face, and with every appearance of rugged but steady honesty. But he was weary—worn out with a hard day's tramping up and down the streets of the city—hungry, dirty, ragged, and with bleeding feet. He came for help, for work; and this was the tale he had to tell:—

• He had never known either father or mother,

nor heard of them. Left a foundling child to be brought up by strangers, hunger and short commons were familiar to him, and many a time in his earlier days he had not known even the shelter of such a "home" as strangers could provide. At fourteen, however, he was fortunate enough to obtain employment with a firm of ironworkers on the east coast, and, working hard and well, remained there some four years, gradually becoming a skilled workman, esteemed by all who knew him.

But a few months before, fortune had again ceased to smile, for the firm which employed him became less busy, and "Brown" was one of the youths who had to be dismissed. A few pounds which he had saved enabled him to remain in his lodgings while looking for employment. He found none, and the time soon came when his reserves were at an end, and he was told that, unless he could "pay his way," he must find another home.

Without money, without friends, he set out to find the work he so eagerly desired. On the first day he walked about thirty-six miles, and on arrival at "S." had to take refuge in the workhouse for the night. A supper of bread

and water was given him, and a similar meal awaited him in the morning, when he was told that he would have to stay two days before he could go on his way—two days, not of ease, but of real hard work. On the first, he was set to pick six pounds of oakum; on the second, he had to break three cwts. of stone, truly miserable treatment for a youth obviously honest, and bearing upon him no sign of the criminal or vagrant type. Released from the workhouse, he wandered round the town all day, meeting with no success. At night he made for the country, and slept in an out-house in the corner of a field. The next day he tramped another nineteen miles, from “S.” to “B.,” where two days were spent in a useless search for work, an empty stable affording a bed by night. From “B.” he marched to “W.,” from “W.” to “L.,” where by a happy chance he carried a heavy trunk for a passer-by and earned sixpence, which procured him food and bed. Then on from “L.” to “B.” and back again to “S.,” to which place he had been told to return by a firm which held out hopes of finding him employment. At night he sought again the shelter of the workhouse, but was told

that he could only be received there once a month. Disconsolate and tired, he lay down in the first field he came to, and slept uneasily through the frosty night.

From place to place the weary walk went on, relieved by little sympathy in the towns, brightened by much along the country roads; for the cottagers, seeing in the lad's open face a quite sufficient index to his character, readily gave the fool for which he asked.

Thus he worked his way down to the Midlands, and there, in the town of "W.," he met with the harshest treatment he had yet experienced. Arriving at the workhouse at six o'clock in the evening, he was first thoroughly searched, everything, even to a button, being taken from him, and the attendant actually insisting upon looking under his tongue to see if any small coin happened to be concealed there. The search over, he was made to strip and walk naked across a cold floor into a bathroom, where two other attendants saw that he duly washed. Thence he was conducted to a small cubicle, or rather cell, provided with a spring bed and three blankets. About eight o'clock a small window in the door was opened, and,

without a word, his evening meal of dry bread and water was thrust in. "Brown" felt, as well he might, that no criminal could have been treated worse. He had done no wrong, he had kept his hand from stealing, and was trying to get employment; yet here he was, degraded and insulted, treated as no decent lad should be treated in a country like our own, with its boasted Christianity, its talk of civilisation, freedom, and equal justice for all.

After a hard morning's work he was liberated, and started once more on the dreary tramp from town to town, from village to village. His boots were well-nigh worn to pieces, his feet were sore and bleeding, but knowing what he had to face, the lad, in order to harden them, actually took off his boots, and, carrying them, walked with naked soles upon the stony roads (an extraordinary course to take, it seems to us), for fear lest he should break down altogether if he became, as he dreaded, totally unable to walk a step farther.

When nearing Manchester, on applying one evening for a night's shelter in the local work-house, he was told it was full, but was given a ticket for a lodging-house. This ticket, while

securing him a bed, did not provide for food of any kind being given to a boy—for he was no more than a boy—who was almost starving.

And so, finally, he reached Manchester. That he was, and is, a good workman is indicated by the fact that he is at this moment working for one of the best-known firms in that city, earning good wages, keeping excellent time, and forming a happy member of the family with which he has found a welcome home.

It is no wonder that young men develop into thieves and drift into criminal careers under such treatment as "Brown" has experienced. Had he borne the worst character in the land he could not have been dealt with more harshly, and yet, though opportunities for theft were constantly before him, he had never taken advantage of them, and his honesty is still unimpaired. Surely youths of this kind might be treated with some leniency and consideration, even in a workhouse. And surely it would not be too difficult to devise some means by which they might, on their journeys, receive information as to where employment is likely to be obtained.

Our acquaintance with the working of the

CHAPTER V

THE VAGRANCY LAWS AND YOUNG OFFENDERS

IN the previous chapters we have briefly sketched some representative careers of lads who gradually sink into what are called the criminal classes, and it will, we hope, be readily admitted by our readers that, except in the case of the "outcast," and possibly also of the old Industrial School boy, there is no real reason why these boys should ever fall out of the ranks of those engaged in ordinary industrial occupations. Their upbringing has been fairly good, their environment has frequently been thoroughly healthy—what, then, has been the determining factor in their lives which has reduced them to the level of accepting the companionship of the most depraved and really criminal, and led them to renounce all those habits of life and conduct to which for years they have been accustomed?

Surely this factor cannot be the mere circumstance that they are unfortunate, and really deserving of pity because they are orphaned? Surely it cannot be their having had to leave their old home owing to the harshness of a step-parent? Surely not that, through no fault of their own, their employer has ceased to need their services? These are all disasters, tragedies even, in a lad's life, and when afflicted by them he needs more than at other times a helping hand and tactful sympathy, not only from friends, but from the authorities of the locality in which he lives. But surely they do not adequately account for the wreck of a single character? And yet it must be confessed that in this justice-loving land, so filled with varied effort for all kinds of people all over the world, the very misfortunes we have named are the direct cause of the fall of countless youths from respectability to vice, from the status of the decent working lad to that of the street loafer and hanger-on or tout of the racecourse. Misfortune involving the loss of home and an empty purse must before very long, if work be not obtained, bring any lad under the notice of the authorities for some offence under the Vagrancy

Laws. And the worst of it all is that no distinction appears to be made between the rogues and vagabonds who rightly come within the pale of these laws and the poor, decent youths who would be only too glad to be for ever removed from contact with any of them.

Two offences stand out above all others as responsible for a respectable lad's first visit to prison. These are sleeping out, or "sleeping rough" as it is termed, and begging. It is true that the punishment for the latter sometimes carries the option of a fine, but a youth who begs rarely does so to add to a store of money similarly gained already—as do many adult beggars—but from the sheer necessity of obtaining the wherewithal to eat and rest. His only alternatives being starvation or stealing, the option of a fine is a mockery, and only gives an opportunity of escape to the depraved and professional beggar, while making imprisonment inevitable for the hungry and homeless novice. A lad does not readily enter the workhouse; he is generally full of hope, and up to the latest hour of the night has visions of a "job." When tramping, for example, from Manchester to Hull, he turns to the roadside cottage for his

food and the field for his bed rather than find his way to the nearest workhouse to receive a scant meal of bread, sometimes with butter but often not, and perform the necessary task before he leaves next day. For in the workhouse, just as before the magistrates, little distinction, if any, is made between the regular tramp and the *bona-fide* searcher for work.

A lad may suffer several days and even weeks of hardship before being charged with "sleeping out," but finally he is taken, and makes his first acquaintance with a prison; though in the larger cities, as already mentioned, he is rarely sent there on his first appearance. The sentence is, as a rule, a very short one—merely a kind of cruel reminder that it is a crime to be poor to the verge of starvation,—but the treatment of the offender differs in no way from that meted out to real criminals. The same method of inspection on arrival at the prison, the change into a horrid uniform exactly similar to that of the most hardened sinner, the same kind of cell, the same food, the same daily round as that of all the other inmates of the gaol, are his. Small wonder that he sees nothing but injustice in it all,

small wonder that he says, as he often does, "Don't talk to me about religion, it was a religious 'beak' sent me to prison for nothing; if that's religion I had rather be without it"; or that he comes out saying, "Well, I don't care what happens to me now. If I had stolen they could only have sent me here. I'll take good care that the next time they shall have something to send me for." Often enough he keeps his word, and the "sleepers-out" rapidly sinks to a lower level, and becomes the convicted thief, and in time "a harden'd, stubborn, unrepenting villain."

Still, it may be said, if this method of treatment reduces the number of sleepers-out, it is not so bad after all. But does it? On the contrary, all the figures obtainable from the Home Office point to exactly the opposite conclusion, and prove that our statements are not based merely on sentiment. On pages 62, 63 will be found tables showing for the quinquennial period 1900-1904 the official statistics relating to juvenile-adults (males) from sixteen to twenty-one years of age apprehended and convicted for sleeping out and begging in England and Wales, along with the numbers for one large city—Manchester.

These figures make painful reading; for while it is certain that the same youth has again and again been convicted for these misdemeanours, so that the number of convictions is much greater than the sum of offenders, it is equally certain that there has been a constant growth in the total number implicated. The steady increase in convictions for begging—the number of cases in 1900 being 310 and in 1904, 739, or an increase of 138 per cent—is a fact which at once shows the utter futility of our present method and its complete powerlessness as a deterrent. Nor is this wonderful: for a punishment which only deals with effects, and does nothing to get to the root of the matter and remove the causes which have produced and continue to produce them, can only be expected to prove idle and fruitless.

This increase has not been a sudden one, or confined to one year; but continuous:—

In 1901	increase was 66 cases,	or 21 per cent on a total of 376 cases.
„ 1902	„ 69	18 „ „ 445 „
„ 1903	„ 179	40 „ „ 624 „
„ 1904	„ 115	18 „ „ 739 „

No doubt, the depression of trade in 1903 and 1904, and the return of thousands of young soldiers from the War in South Africa, unduly

TABLE No. 1

JUVENILE-ADULTS (MALES), sixteen to twenty-one years of age, convicted after apprehension for Begging and Sleeping Out—five years, 1900 to 1904
ENGLAND AND WALES, with abstract of Manchester figures.

Year of Offence.	Convictions, England and Wales (including Manchester).		Increase or decrease percentage.		Manchester convictions.		Increase or decrease percentage.	
	Begging.	Sleeping out.	Begging.	Sleeping out.	Begging.	Sleeping out.	Begging.	Sleeping out.
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
1900	310	432	...	...	2	24	...	...
1901	376	487	21 increase	12 increase	12	44	500 increase	83 increase
1902	445	571	18 "	17 "	10	76	16 decrease	72 "
1903	624	523	40 "	8 decrease	7	82	30 "	8 "
1904	739	651	18 "	24 increase	16	45	128 increase	45 decrease

NOTE 1.—The percentage increase in the five years for England and Wales (including Manchester) is—Begging, 138 per cent ; Sleeping out, 50½ per cent ; and for Manchester alone—Begging, 700 per cent ; Sleeping out, 87½ per cent.

NOTE 2.—The same individual may have appeared again and again before the Court.

NOTE 3.—It may be taken that five-sixths of the above went to prison.

swelled the numbers in these years, but the most important fact remains the same, *i.e.* that the infliction of short sentences of imprisonment is not the right way of dealing with this offence so far as boys and young men are concerned, but is, on the contrary, an almost certain method of ensuring a complete loss of self-respect and an utter indifference to future convictions.

TABLE No. 2

JUVENILE-ADULTS (MALES), sixteen to twenty-one years of age, convicted after apprehension for Begging and Sleeping Out—five years, 1900 to 1904

ENGLAND AND WALES and MANCHESTER

Year.	Total convictions, England and Wales (including Manchester). Juvenile-Adults (Males).	Total convictions, Manchester. Juvenile-Adults (Males).	Percentage of Manchester convictions to total. England and Wales.
			Per cent.
1900	742	26	3½
1901	863	56	6½
1902	1016	86	8½
1903	1147	89	7¾
1904	1390	61	4½

In Manchester in 1900 only two youths were convicted for begging, but in 1904 sixteen, a very considerable increase, though not so alarming

as the percentage figures—an increase of 700 per cent—might lead us to suppose.

Although the option of a fine is sometimes given in these begging cases, as a rule it may be assumed that fully five-sixths of those convicted go to prison.

Sleeping-out cases also have unhappily multiplied—from 432 in 1900 to 651 in 1904, or 50½ per cent. With regard to these similarly the increase was steady, except in 1903, when there was a decrease of 48 cases as compared with 1902, only to be followed by the striking increase of 128 cases, or 24 per cent, in 1904—an increase again partly attributable to the depressed conditions of trade during the latter year.

In Manchester the increase was considerably greater than in the country as a whole, the numbers being:—

1900	.	.	.	.	.	.	24
1904	.	.	.	.	.	.	45

or 87½ per cent.

Deplorable as is the state of things disclosed by these figures, they do not present to the casual observer the whole of the evil, for, in addition to the cases in which conviction has

followed arrest, it must be remembered that there are many cases where the charge is dismissed. The dismissal of the charge does not, as a rule, relieve the position in the least; it leaves the wretched youth just where he was before. "Think yourself lucky you have not had to go to prison," some one says to him, and so he does. But this thought in no way helps him to find work, food, or shelter, though happily he may get work before he is arrested again, and so end his troubles, and avoid the disgrace of imprisonment.

Let it be distinctly understood, that we are only referring to the working of the Vagrancy Acts so far as *youths* are concerned. The adult question is on an entirely different footing. To allow lads to beg, or to "sleep out" in yards, enclosed grounds, brickfields, etc., would be a nuisance to society; what we plead for is an alteration in method which might set the lad upon his feet instead of, as our present system so often does, causing him to sink lower and lower. If the quality of the water supplied by our waterworks is not what it should be, investigations are ~~immediately~~ made to discover the cause of contamination, and its source.

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NOT EXCHANGEABLE AND
NOT SALABLE.

Instead of following this example, our system of punishment, as it were, allows the tainted water to enter the reservoirs, makes a perfunctory, unscientific attempt at filtration, and for the most part *redistributes it no purer than it came*. In fact, we spend more time and effort in devising repressive measures than in tracing the origins of crime, or providing for the right guidance of the youth of the poorer classes. There is no doubt that very many of the confirmed criminals who fill our prisons to-day are men who were originally convicted for some trivial offence under the Vagrancy Laws, and who, with different treatment in the first instance, might have developed into valuable, or at least harmless, members of society. Imprisonment for a week or a fortnight might not in many cases seem a very unjust or a very harsh punishment, *if that were all*. The pity of it is that it is *not* all. "Seven days!" says the magistrate, and a malignant spirit of the future may echo, grim and cynical, "Seven days, *and* a criminal career!" For very often the first sentence has the effect of a declaration of war by the community on the offender. He is filled with resentment at what he considers the wrong done

him, he feels that he has been humbugged, that after all might is right, that it is justifiable to meet might with craft; and taking up the gage of battle, he becomes the bitter enemy of authority.

But our whole system is based on a mistaken principle; it is retrospective, not prospective, for it looks entirely to the past instead of to the future; it has in view the offence, not the offender; what he has done, not what he is; what he has failed to be, not what he may become. It omits to recognise that society, having by its conditions reduced an unfortunate youth to penury and the police court, owes it to him to do all in its power for his rehabilitation. For though the first object of punishment must be, not the good of the criminal, but the protection of society, it is by cutting off the supply of criminals by foresight and care for the individual while young that this can best be attained. As it is, punishment too frequently appears to be the vengeance of the community blindly inflicted on those who, from no fault of their own, trouble its tranquillity or ruffle its respectability. Could anything be more unjust, more fundamentally barbarous?

In countries where the difficulty of obtaining work is not so great, youths who come under the operation of vagrancy laws are not so deserving of special consideration, since their own fault forms a larger element in their troubles. Belgium is probably the country which has made the most determined and sweeping attempt to solve the vagrancy problem as a whole, though whether with deep-reaching success so far as the vagrants themselves are concerned is an open question.¹ Men who have become vagrants and beggars because, though not unemployable, they are unemployed, and first offenders of this category, are sent to a "House of Refuge" for a maximum term of one year, whilst those who are inefficient and prefer a vicious and idle existence are placed, when arrested, in a huge Reformatory, Farm-Colony, or "Beggars' Depot" (the "Dépôt de Mendicité" at Merxplas), containing some 5000 inmates, who, besides producing practically all their own food, clothing, etc., are engaged in nearly every variety of manual labour. The maximum detention is for seven years, the

¹ Cf. Report of the Departmental Committee on Vagrancy, 1906; and *Board of Trade Report on Methods for Dealing with the Unemployed in Foreign Countries*, by Mr. D. F. Schloss, 1904.

minimum for two, or if imprisonment has preceded the committal, for one year. It is enjoined that persons under twenty-one shall be completely separated from the older inmates, and spend certain hours in school instead of at labour. But in September 1903 only 28, and in August 1905¹ only 27 inmates were under twenty-one years of age, for vagrants and beggars between the ages of fourteen and eighteen are placed in one of the "Ecoles de Bienfaisance" or "Ecoles de Réforme" previously mentioned, and may be, and often are, detained till their majority. Though "as a rule too little oversight and care are exercised"² when their freedom is restored, it seems sufficient to preserve those dismissed at earlier ages from sinking back to the status of the vagrant. The fear of prolonged detention no doubt acts on the young as a deterrent, and makes them hesitate before taking to a vagrant career.

In Germany a lad honestly desirous of work has other alternatives besides the casual ward and the prison. He may apply at one of the

¹ Rev. W. Carlile, *The Continental Outcast*, 1906.

² *Good Words*, June 1901. "Hooligans at Home and Abroad."
R. M. Barrett.

well-organised labour bureaux, and if work for which he is suited cannot be obtained in the neighbourhood, may receive a "Wanderschein," or passport, enabling him to travel by a specified route to a place where labour is in demand. At intervals of half-a-day's march he will find relief-stations, where his papers will be examined, and in return for a few hours' work will receive food and lodging. It may be objected that this system makes a vagrant life too easy, but where the rules and discipline are strictly maintained this is not the case, for a labour registry is connected with each of these stations, and those who make use of them are not permitted to go round looking for work, but must accept any suitable situation offered, or become ineligible for further assistance. The youth might thus tramp from one end of Germany to the other without suffering hardship or disgrace. Or he might enter one of the "Workmen's Colonies" found all over the country. Private enterprise established the first some twenty years ago, and there are now thirty-three, managed by twenty-five voluntary societies working in connection, and, with the exception of three which are self-supporting, subsidised by the Government. Founded

to combat vagabondage, their purpose is by strict discipline and Christian principles to restore vagrants and men apparently incapable of steady work, or for any reason unable to obtain it, to respectable and independent industrial life. There need be no degradation or loss of self-respect in becoming an inmate of one of these colonies, and as very hard work and no intoxicants are the rule, it has been claimed that the thoroughly vicious and idle seldom enter them. They are evidently, however, largely used by undesirable "ins and outers" and ex-prisoners, as affording the only alternative to a long and compulsory period of detention. For as in Holland and Belgium, so in Germany, beggars and vagabonds are dealt with far more severely and thoroughly than by our laws. A maximum of six weeks' imprisonment may, for a repeated offence, be followed by one to two years' confinement in a House of Correction, where they are kept hard at work on farm labour. On one day in 1905, the number of such "colonists" was 3807, distributed among 469 buildings. The average cost of their support (supplementary to what their labour provided) was $47\frac{2}{3}$ pf., or just under 6d. per day. After a stay of two or three

months an inmate may leave with money earned, and a certificate which enables him more easily to obtain permanent employment. "Verpflegungsstationen" are provided where those on their way to a colony may get board and lodging, so that they too need never beg their way. Whether colonies of this kind may be advocated *per se* does not concern us here. Their success, indeed, seems moderate, since the number of men who leave them for situations has failed to rise with the number of colonists. In 1895 and 1903 the numbers respectively were:—

Colonists	7,869.	Situations found	1886.
"	10,307.	" "	1906.

Of 73,953 men who passed through the colonies in the nine years 1895-1903, 7962 left for situations found by themselves, and 7976 for situations found by the colonies, and of the total number 4336 were lads under twenty-one. Of 8472 admitted to one colony, that of Käs-torf, Hanover, in the course of twelve months (1904-5) 377, or 4·4 per cent, were under twenty; and of the 8303 persons who quitted the establishment 2379 went to situations.¹

¹ Mr. Schloss' *Report*, 1904. *Statuten des Vereins für Arbeiter-Colonien, Hannover. Jahresbericht des Hauptkomitees des Vereins*

Respectable workmen only use them as a last resort, and the results may not be brilliant, nevertheless the existence of these institutions gives another chance to lads such as are above described. Here again the law for "Fürsorge-erziehung" may apply to them up to the age of eighteen; institutions for receiving such cases are sometimes found in connection with the Workmen's Colonies. But it is clear that in Germany no decent youth should ever find his way to a police station as a result of misfortunes such as bring him there in England.

In Austria and Switzerland there are similar systems of relief-stations and labour registries. In the latter country Workmen's Colonies are also found, but as only five youths entered them in 1905, they need not delay us here, any more than the one French colony, to which no person under twenty was admitted.

A good example of the assistance given by voluntary effort to youths of this type in America is furnished by the New York Children's Aid Society, "which for fifty years has devoted

für Arbeiterkolonien, Hannover, 1905. It may not be generally known that one of these German colonies has existed for many years in Hertfordshire, and is responsible for the return of many a "destitute alien" to his native land.

its efforts to reclaiming migratory children." The doors of its lodging-houses are constantly open to all comers between the ages of twelve and nineteen, and efforts are made to discover what has brought each boy or girl to them, and provide due assistance. The nightly average of lodgers is about 400, and 5563 young people availed themselves of the Homes in the course of a year. "The Society employs thirty-two experienced agents, supervisors, and probation-officers to look after the interests of these young people, putting them in the way of a brief training to fit them for employment either in the city or, preferably, in the country; to find such employment for them, and visit them in their country homes; and in every possible way striving to influence them to a steady life, and to advance themselves." A farm school in connection with the lodging-houses is very successful in training many girls and boys for a life in the country, where there is a great demand for them.¹

¹ *Report of the Proceedings of the Third International Congress for the Welfare and Protection of Children.* London, 1902. "Migratory Children." Charles Loring Brace.

CHAPTER VI

OBSTRUCTION AND RAILWAY TRESPASS

THE offences against the Vagrancy Laws described above are not the only ones whose punishment demonstrates the evil effects on youths of short sentences of imprisonment. There are, in addition, two charges common in our large towns and cities which appear to be dealt with in a way that does the least possible good and not infrequently much harm : namely, those for "street-obstruction" and "railway trespass."

We only refer to the former in so far as it affects boys charged with selling in the streets ; the charge of obstruction against decent youths for blocking the footpaths in the residential parts of a city is something of an entirely different kind, and only in very few cases results in imprisonment ; whereas the charge against a

lad for selling flowers in one of the main streets is followed more often than not by his "going down," as it is termed, for seven or fourteen days. This treatment rarely does any good, for the same youth will "go down" time after time, and become more reckless and indifferent with every repetition of the experience. No one would argue that youths with their small wares, flowers, or fruit should be allowed to crowd the streets and annoy foot-passengers by their persistent efforts to effect a sale, but the offence is surely one that might be treated in some other way, a way if possible that would ensure the complete disappearance of the lad as a street-seller.

We know well the case of a youth, H. W., who in an accident in 1904 lost the greater part of the fingers of both hands. Since then he has sold papers about the streets. He is in many ways without question an undesirable person. Up to June 14 of the present year he had been convicted no less than ten times for obstruction, and served sentences of seven days up to a month; in June he was again sentenced to a month's imprisonment for the same offence. No doubt, both police and magistrates correctly administered

the law, and did their duty, but it is hard to see what can be the use of such treatment in the case of a youth debarred from ordinary employment by the accident he has met with. It must indeed be hard for a lad to see the justice of so severe a punishment for what he may sincerely regard as a legitimate attempt to earn an honest living, especially hard when he sees other hawkers in the same street go unmolested. Continued acquaintance with the prison, continued feelings of resentment against a social system which is so hard upon the unfortunate, are certain to lead to criminality, unless a youth of this kind can be set up in some occupation like that of a hawker with a regular license.

The other offence referred to, that of railway trespass—*i.e.* touting for odd jobs, such as the carrying of passengers' parcels, etc., at the approach to a railway station—is really very much confined to a particular class, and a very disreputable class, being one composed chiefly of idle, dissolute, outcast youths who make their homes in the lowest common lodging-houses. During the week they generally earn quite as much as or more than respectable working lads, but dissipate

their gains in vicious habits of all kinds, principally gambling; for lads who "work the rattler," as this occupation is described in their own slang, are inveterate gamblers. They may have been without a job from ten in the morning until noon, and then perhaps earn sixpence. At once the money is staked in a game of pitch-and-toss, or handed to another lad that he may run to some small bookmaker and risk it upon a horse. Or it is even staked in a bet made on the spur of the moment on the number of the next tram-car which may be coming along.

These lads nearly always work in gangs, and become regular pests in any large city. Imprisonment for a few days is absolutely meaningless to them, and is not in the faintest degree a corrective or a deterrent. Many young fellows of eighteen to twenty years of age have been convicted time after time, and their future under our existing method of punishing the offence is one full of possibilities, or rather probabilities, of evil.

Occasionally, but only occasionally, a really respectable lad also endeavours as a last resource to earn a little in this way, and in the smaller country towns may succeed; but in the great

centres the regular habitués of the station-approach drive him off if they can, much as Turkish street-dogs drive a canine intruder from their special "beat." For the ranks of the boys of this class are recruited from companions they meet at night, and from youngsters who have lived such lives as those described in Chapter I. These are certain to know many youths making their living "on the stations."

As a matter of actual experience, we have found that lads who have earned their living in this way for some months are more difficult than any others to win back to any regular, orderly way of gaining a livelihood. Many of them join the Militia, and a few pass on to the Line, but the majority finish their Militia training only to go back to their old way of living, and to drift steadily downward, impelled rather than deterred by existing methods of treating the nuisance they undoubtedly cause.

Short sentences of imprisonment are absolutely useless where these youths are concerned, and in a later chapter (Chapter IX.) we shall suggest the directions in which an alteration of the existing law might be useful.

CHAPTER 'VII

THE YOUNG THIEF

No one paying particular attention to the youths from sixteen to twenty-one years of age in any of this country's larger prisons can fail to notice how great is the number committed to them for petty theft of all kinds. For some obscure reason it seems to be an offence steadily on the increase; not that valuables are much stolen, but frequently old iron, clothes, and very often indeed boots—articles, in fact, which are easily turned into cash at the pawnbrokers' or the 'marine-store dealers' shops.

In the evolution of the habitual criminal from boyhood to manhood, theft seems almost invariably to form a distinct stage. A child of ten or eleven is of an unsettled disposition, plays truant from school, and refuses, sometimes justifiably, to stay at home. At this stage he may be

captured by the Industrial School and his evil tendencies checked. But if he eludes this good fortune the time comes when he takes some apples from a greengrocer's hamper, or a few groceries perhaps, or a pair of boots which are hanging temptingly outside the window of a shop. And again he is to be congratulated if his progress has been rapid enough to ensure detection before he is sixteen, as then he can be sent to a Reformatory. Proof of this development in the direction of theft may be found in the fact that whereas 50 per cent of the boys in our Industrial Schools are there for truancy, vagrancy supplies only 10 per cent of those in a Reformatory the great majority being sent there for petty thieving. It is the same on the Continent; over 90 per cent of the boys, *e.g.*, at the Berlin Reformatory, Lichtenberg, have been guilty of stealing. But though criminality generally comprises theft, theft by no means always points to criminality, and where lads of over sixteen are concerned, there can be no doubt that this petty thieving is of two absolutely distinct kinds. These are:—

- (a) Induced by hunger, and usually on the impulse of the moment.

- (b) The putting into action of a deliberately thought-out plan of obtaining money or its equivalent by unlawful means.

Youths coming under section (a) have frequently not a taint of criminality about them, and have every wish to do right. But days, or it may be weeks, of wretchedness while engaged in a vain effort to find work have made them reckless, or, as some of them say, have caused them to think that even prison would be better than being constantly driven from pillar to post. And so a loaf, biscuits, eatables of some kind may be stolen from a grocer, or anything, it matters not what, taken and sold to obtain food. A youth of this class is not a hardened thief, and if set on his feet would probably never steal again. It would not be right for one moment to allow him to imagine that destitution conferred a right to steal, but in many cases we think it would be possible on a first charge to deal with such a lad under the First Offenders Act, and to have employment and a home found for him. There is the widest difference between him and the lad coming under section (b). But if he is sent to prison at all, a sharp sentence of three, six, or twelve months is infinitely more

useful than one of a month. While serving it he is well cared for, and if he comes under the operation of the Borstal system, fully detailed in Chapter X., will be usefully employed while in prison, and when work is found for him on his release will generally settle down to it with a will. From some experience with ex-juvenile-adult prisoners of this class, we are well within the mark in saying that over 80 per cent of youths severely, very severely, punished, if punished at all, ultimately turn out well. The short sentence is the one evil to be feared.

Under this category also comes a by no means inconsiderable number of cases of youths who, seeing their people at home starving or on the verge of starvation, steal to procure means of supplying their want. Here also there is no real likelihood of the boy becoming a criminal; in presence of the deep wrong that it seems that his mother and young brothers and sisters should suffer thus, his ordinary conceptions of probity may reasonably be affected, and misguided as is his act, it is due to the finest instincts within him, to a sympathy which cannot bear to see those dear to him famished and sick, and makes him reckless of the consequences to himself.

Provided work is found for him he may well be treated under the First Offenders Act, but if not, the long sharp sentence is altogether preferable to the short one, which can only do him harm.

The case of the youth charged under section (b) is altogether different. As a rule no course can be taken that is more unfortunate and fatally unkind than to deal with him under the First Offenders Act. The boy has often used much cunning and ingenuity in committing his thefts. If he has worked in an office, the abstracting of letters containing postal orders, and the subsequent fraudulent cashing of the same, has been the form his wrong-doing has taken. Usually this is a boy who is working on a higher social plane than his parents; he likes to dress, as he thinks, smartly; is anxious not only to go himself, but also to treat his friends, to the theatre and the music-hall; and always to feel a little money in his pockets. In short, he loves ostentation, and corresponds to a type well known in circles where credit is freely given, and there are convenient relatives in the background to pay the bills. His little rightful pocket-money will not permit of all this, and

he casts about for some means of obtaining the surplus he needs, and by robbing the stamp-drawer, pilfering postal orders, or stealing and selling some of his master's goods, gains his end.

Such a youth runs the risk of becoming a really dangerous thief unless sharply dealt with, but very often indeed an employer, rather than prosecute, will let him off, listening to the parents' appeal for the matter to be allowed to drop, and simply contenting himself with dismissing the culprit.

Ingrained amongst people in general is a very strong feeling that a lad's chance is spoiled for life by a conviction followed by a term of imprisonment; far more often his life is spoiled by the failure to punish severely youthful delinquencies of this kind. A boy should be made to feel the wrong he has done, to understand how serious his offence is, and to realise that justice demands its expiation. Often enough, when let off altogether, he entirely fails to feel anything of the kind. It is to be feared that both he and they who decide his fate see as much or more disgrace in the punishment than in the deed.

Just recently a case came to our notice of a

youth, previously thoroughly respectable in every way, who was brought before the magistrates for office-pilfering. A strong appeal was made on his behalf, and he was discharged. The firm who employed him immediately on his discharge from the court, now find he is pilfering from their office also ; the previous lenient treatment having had no real effect. But instead of prosecuting they intend to try and get him to sea ; an expedient which so many, apparently convinced that "the sea washes off all the ills of men," imagine an ideal one for dealing with unsatisfactory boys.

Such lads, if they are only sixteen, require two or three years' training in a good school of the Reformatory type ; and if eighteen or more, a twelve-months' sentence, which would bring them under the excellent Borstal system, and no doubt in many cases mean the saving of their future character. By its various Committees throughout the country the Borstal Association is able to find for nearly all the youths who are undergoing this treatment good employment on leaving the prison, and it is only the lad's fault if he does not then do well. If employers and others had more faith in the reformative

influence of the machinery of punishment they would be less loth to prosecute.¹

A lad of this kind is only too often made a criminal by being let off when he has done real wrong. The lad who has merely begged or "slept out" is equally made a criminal when he is sent to prison for having done no real wrong at all. The latter, as a rule, may well be let off; but the former, who has stolen when he had no need, and has exercised skill and cunning in doing so, should always be punished for the sake of the future.

¹ Cf. Havelock Ellis, *The Criminal*, pp. 358-9:—"A girl of twelve not long since murdered a child of four. . . . The jury acquitted her. They acted in defiance of the evidence and of the law. It is clear that what they said to themselves was this: The law will send this girl to prison for some ten or fifteen years; we do not believe in the advantage of that, and we prefer to deliver her from the law altogether. They were, as the judge said, a very merciful jury. But it is not by shuffling evasions of law that civilisation progresses. We need just and reasonable laws, not merciful juries. . . . If we are to avoid the dangers of lying and cowardly verdicts, we must see to it that our law keeps pace with our knowledge and with our methods of social progress."

CHAPTER VIII

THE DEVELOPMENT OF THE CRIMINAL

WE have now reviewed the various types of youths who most frequently recruit the criminal ranks, along with some of the causes which seem to impel them to a downward course, but before referring to any possible remedies for the existing state of things, let us trace the gradual development of the criminal. Let us notice how, intellectually, his low surroundings seem frequently to dull a mind previously active and keen enough; how, socially, he has been reduced to accept as companions youths of the lowest stamp; how his self-respect has gone; how entirely restraint upon the impulse of any passion seems to have disappeared; and how difficult it is for him, even when the effort is made, to mix with such of his fellows as have not like himself been acquainted with the prison, and become versed in the ways of those whose

whole life seems to be a constant rebellion against the ordinary usages of society.

The great bulk of criminals are not made quickly; a deadly apprenticeship is usually served, and the stupefying of the intellect is, as a rule, an early stage in the process. A youth has passed his Seventh Standard at the Elementary School, has taken some small interest in good reading, has perhaps pursued some little hobby, when, from one cause or another, his first term of imprisonment is served. If he is not at once given the chance he needs, what follows? The common lodging-house, and the conversation of the "pals" he meets there, conversation generally devoid of anything even approaching serious thought, often lewd and wicked; reading, except that of the most objectionable kind, utterly laughed at; writing practically unheard of, and amid such surroundings only a madman's hobby. Quickly, all too quickly, he loses interest in most things good, and pricks up his ears as he hears mention made of this or that horse that may win some race, or the details of a "soft job" which some of his companions have "on." Gradually, but surely enough, as time goes on, and he lives his uncared-for life, thieving and

violence become less repugnant, and he finds himself looking at shop-windows and other premises merely with a kind of inquiry as to how he might "lift" something or successfully engage in "tea-leaving" (robbing a till), and with no other interest. "The politics of the day, the very life of the city in which he lives, are a blank to him; and nothing is more difficult to restore in a youth who has spent some years in this way than a healthy interest in all there is around him.

And with this decay of intellect there is the inevitable social fall. The boy feels he has cut himself adrift. What matter now what clothes he wears? What matter whom he "pals with"? Who cares where he goes? The lowest public-house is his appropriate resort, the most notoriously evil set of lads are his equals; his former friends do not want him—nobody cares what he does. And so socially, as well as intellectually, he drifts ever lower, to a depth from which it is very hard to raise him, a depth, however, from which it would be much less difficult to rise were there more of a real and large-hearted charity and feeling of brotherhood among those who bear the name of Him who said, "He that is without sin, among you, let him first cast a stone."

These two marked changes, the intellectual and the social, almost inevitably bring about an equally marked and terrible deterioration of character. There is first to be noticed the growth of a certain cunning, a strange secretiveness, a want of real openness, a timidity about disclosing any of the real facts of his life—perhaps this is natural—a deliberate effort to deceive on all possible occasions. Although living a careless, free, easy life, knowing no restraint, let a stranger of slightly higher social standing come in contact with such a lad, and all the freedom and the ease of his bearing have gone. He looks up suspiciously, and hesitates before answering questions, obviously wondering what the other knows about him, and what, to use his own expression, he is “getting at.” Only with his own low chums is he entirely at his ease; outside their circle he is doubtful and distrustful of all who come in contact with him, his conscience—of which he has not the vaguest conception—making him a coward and a craven.

In other directions, also, there is a grievous change. Whilst living at home—however poor and bad home may have been—he could not do just as he pleased. When a meal was ready he

could not always take for himself the whole of what he cared for most; whatever it was had to be divided. He was not entirely his own master; many a time he had to help in the "tidying-up" of the house, and perform little homely tasks, which were all good for him. He was learning, if very poorly and inefficiently, that his life could not be lived for himself alone; he respected more or less the property of his relatives and friends.

All this has been changed, and as the years slip by, liberty and imprisonment alternating, his life becomes one of complete self-indulgence and depravity. Whatever he may earn is devoted—to what? The procuring of better housing, better clothes? No, on the contrary, to the instant purchase of the cigarettes without which he can hardly exist, of strong drink, of a seat at the music-hall, or to the indulgence of some vice more or less expensive to its devotees. Does he care for some particular kind of food? If he has the money, he will eat it to repletion. Is he inflamed by some sudden passion of rage, or hate, or lust? Well, there is nothing to stop him from gratifying the impulse, and he too often does. He likes horse-racing, gambling,

drinking, and takes his share in all. No thoughts of the future, of relatives or friends, trouble him; his social instincts wither and die. The pleasure of the moment for himself is all he seeks, and as a consequence of the life he leads his respect for the rights of others gradually disappears, till he comes to think only of himself and what he wants, and, if he can, takes it, regardless of all law and all custom, gradually and undoubtedly becoming worthy of the description "criminal."

It is true some influence may arrest him on his downward course: sometimes the words of some really good man touch a chord which for years no hand has found; sometimes strong affection for a sweetheart does completely change a life. We have known not a few young fellows say, "Well, I have got to thank my girl for what I am now." There are these bright spots that one may see, but they are rare, and the longer it is between the date of a youngster's first imprisonment and the time when a protecting hand is stretched out to raise him up, the more likely that he will sink to a depth from which it is often almost hopeless to try and drag him.

CHAPTER IX

POSSIBLE REMEDIES

HAVING considered some of the various causes which make for the development of the criminal, and pointed out how evil the working of the Vagrancy Laws often proves in the case of lads, we shall now shortly sketch some methods by which it might be possible to amend the existing state of things—methods which would do nothing to render idleness and loafing easier, and which would discountenance as sternly as possible any departure from the ordinary laws of rectitude.

Let us take first the outcast boy of sixteen to nineteen years of age (see Chapter I.), too old for a Reformatory or a voluntary Home, who is making an idle living on the streets, “sleeping out” and begging, and frequently going to prison for short terms for these offences and also for

railway trespass. It may be taken for granted that this boy will not work regularly and steadily in the ordinary acceptance of the word. It will probably be waste of effort and worse to find him a job, for he will not keep at it, and his unsatisfactory conduct may cause the employer to decline to give another lad from the same quarter a chance. He has never acquired the habit of work, and no doubt this is largely his own fault, for he has had plenty of opportunities of doing so. But probably no one has ever explained to him his responsibilities, or made him understand the value of work for work's sake, the necessity of it, not merely on material grounds, but as one of the essentials of happiness as natural and indispensable as food and shelter. If the inducement be high enough and rightly understood, a boy will seldom shrink from any reasonable effort; if he has never realised that work is an end in itself, but perforce regards it only as a means to the acquirement of comfort and pleasure, is he altogether to be blamed if he decide that the balance of comfort and pleasure inclines to the side of idleness? Nevertheless, when habits cannot be formed by reason and conviction—and it is the exception when they

are—they *can* be acquired by compulsion; and if we reflect we shall see how large a part the slow, steady pressure of compulsion, not necessarily felt as such, but none the less real, has played in the development of our own habits. And again, is the “outcast” boy to be blamed if such compulsion to work as has been brought to bear upon him has been intermittent, violent, inconsistent? Thoroughly idle as he is, we may indeed regard him rather as the victim of a disease due to neglect, for mere idleness is a disease—happily not incurable—resembling a narcotic in its effects on the moral sense. The lads, and they are many, who lose their work after a week simply through bad time-keeping, are suffering from it, and it overcomes them even when they are really doing their best. What is wanted is some anti-narcotic to counteract their lethargy, some spur which will keep them alert and make them realise that when they have got work they must keep it. How can this anti-narcotic, this spur, be supplied?

Two possible courses seem open. The one is to put in force the recommendation contained in the *Report of the Royal Commission on Physical Training (Scotland)*, 1903, vol. i. pp.

20 and 21, pars. 93, 94, and 95, to the effect that Short Detention Schools be established :—

What is wanted is a means of dealing with the loafer . . . ; a remedy, not a punishment ; a scheme at once practical and economical ; and one which shall be available for young persons up to the age of eighteen, not merely sixteen.

Some assistance in solving the problem may be afforded by a consideration of what is done for children under fourteen who commit offences against the law, or who have to be rescued from criminal surroundings, or who prove themselves confirmed truants. These may be committed to Industrial Schools. But Industrial Schools are of three kinds : first, the ordinary Industrial School, where children are detained for a series of years ; second, the Truant Industrial School, where they are detained for a few weeks ; third, the Day Industrial School, where they receive their food, elementary education, and industrial training in the School, but continue to sleep at home. Can nothing be devised for young persons between fourteen and eighteen, similar to the Truant School, or the Day Industrial School ? It is extremely doubtful whether the latter can possibly be as effective in the case of young persons as of children. The attendance of a child at the Day Industrial School implies that the School has the backing of some parental influence, however slight. It may be taken

for granted that no street loafer or hooligan over fourteen is subject to any parental influence whatever. . . . We suggest that the experiment of establishing a Short Detention School, which should bear the same relation to the Reformatory that the Truant School does to the ordinary Industrial School, might well be tried. Under the existing law a child whose case does not appear to call for a long period of detention can be committed under an indeterminate sentence, nominally expiring at the age of fourteen, to a Truant School. After a few weeks he may be licensed out on condition of attending regularly an ordinary school. If he breaks that condition, he is called back to the Truant School, and he is detained there for rather a longer term before he can earn a fresh license. In the Report of Your Majesty's Inspector of Reformatory and Industrial Schools for 1900, it is stated that, of the 34,000 children who up to that date had crossed the threshold of a Truant School, more than half had done so once and no more; while only about one in six had had to be admitted more than twice. . . . It would be well if some Local Authority had power to establish a similar school for the older class of whom we have been speaking.

An essential condition for the success of the enterprise would be that those dealt with should not be youths whose fit and proper place is the ordinary Reformatory School. There must be discrimination. The magistrate should only commit to the Short

Detention School those whom he is quite certain he ought not to commit to the Reformatory School, and the committal should not count as a criminal conviction. The Short Detention School should be as brisk and lively, as strenuous in the activity of the school-room and the workshop, and of the drill-yard or gymnasium, as the best-organised Truant School; and a license, conditional on regular work, . . . should be easily earned. There seems no reason why such an institution should not be as effective as a Truant School, and we suggest that the proposal is at least well worth a trial. An objection may be raised on the score of expense, but if the experiment succeeds it will furnish an answer to that objection, because success would bring a perceptible reduction in the number of young loafers or hooligans, and a corresponding saving to voluntary subscriptions, the rates, and the Imperial Exchequer.

The great majority of lads on the streets are from sixteen to nineteen years of age, and we have not the least doubt that were such Short Detention Schools established, they would speedily lead to the disappearance of many of these youthful loafers from our cities. We would not, however, limit the age of admission to eighteen, but extend it to nineteen or twenty. Youths sent to one of these Schools, say, on a

commitment for twelve months—power being given to the governors to release on license as soon *after three months* as a lad seemed fit, to become a real worker—would in many cases be entirely reformed, if the experience of Juvenile Truant Schools is anything to go by. It is the first few weeks or months of industrial life that mean disaster to most of these youths when they try it—the being at work at six in the morning and sticking to it day after day is too much for them, and usually within a few weeks of starting they are discharged for bad time-keeping.

As we have seen, imprisonment for short terms¹ does no good ; it does harm, and there has been for years a general consensus of expert opinion as to its evil results.

We are of opinion that but little, if any, permanent benefit will be produced if the boys are committed to prison for short periods. . . . Short periods of imprisonment, however frequently they may be repeated, produce no regenerating and lasting effects upon the mind and character,

wrote the Inspectors of Prisons in 1837, and in the same year the Commissioners, deprecating

¹ See Appendix, pp. 333-334.

ing the sending of juvenile offenders to gaol, observe :—

The present system may be compared to the economy which works a steam-engine to crush a fly. A too common use of the processes of our criminal courts tends much to a prostitution of the dignity of the law. . . . The juvenile offender comes out of prison much worse in character than when he entered it.

The fate of Blue Books is well known.

• But we may confidently hope that a well-disciplined School, giving as much industrial training as possible, with judiciously ordered recreation, drill, reading, and mental instruction, and approximating in the hours of work as nearly as possible to an ordinary working boy's day, would in the space of a few months effect a great change. New ideas would be formed, and new associations and habits created. The central idea of the School would be reformation—education, not punishment—and the great contrast between life there and life in a prison would be, that whilst the latter demands little more than patience and passive good conduct, from the former nothing but active, steady, conscious effort could within a moderately short time bring

release. A term of imprisonment is simply a period to be *got* through;¹ a term of confinement in a Short Detention School would have to be *worked* through. While there a lad might work hard for the sole object of quickly gaining deliverance and renewing his shiftless, casual mode of life. But if for three months, six, or twelve he had been *forced* to rise at five, to strive all day, to do without tobacco, to eat wholesome food, and live a regular life, he would in all probability have become so changed in character and purpose that he would leave the School anxious and ready for work, and better equipped for it than he had ever been in his life before. The day in the factory or at the forge would no longer seem full of intolerable hardship, for he would feel in himself a new power, discover that what before seemed impossibly difficult had become quite feasible, and that since he *can* work, work is after all not a bad method of securing comfort and pocket-money. With the new habits would have been acquired health and strength and

¹ "Hard labour is such that no prisoner could get a living outside if he did not work harder." Mr. Horsley, quoted by Havelock Ellis in *The Criminal*.

vigour to continue them, and every day of successful toil would bring him nearer to becoming a confirmed worker in place of the confirmed loafer who entered the School. And if the moral and physical change, the altered inclination, the new-formed desire were wanting, compulsion would still remain, for he would leave the institution only under the strict proviso that if he were idle and a bad time-keeper he would be brought back to finish his original term of commitment. If symptoms of the old disease appeared, the fear of recommitment to the School, with its irksome rules, severe discipline, and absolute necessity for strenuous endeavour, would prove a most effective medicine and a most poignant spur. In many cases the youth would appreciate and be grateful for what had been taught him, and acknowledge that the enforced effort had been the making of him.¹

Granted all this, however, who is going to find him work, where is he to live, and how can he possibly be supervised? These are all

¹ "How often do these young fellows, when asked the reason of their repeated relapses, answer, 'Oh! if only I'd been let off punishment the first time, and sent to a School at once, I should have learnt something useful, and been a decent lad now.'"—*Schlesische Zeitung*, June 14, 1906.

questions demanding an adequate and satisfactory answer before we can get any further.

As to finding the work, the School authorities could probably do this, and it would not be a very difficult matter, the labour of youths nearly always being in demand. But what about his home? It may be taken for granted that a lad of sixteen would not earn less than 10s. to 12s. a week; if eighteen probably 12s. to 14s. or 15s. A School might easily obtain a list of fifty or sixty desirable homes glad to receive such a youth for 10s. a week, or a little more if nearing manhood and earning more. We ourselves have had no difficulty in getting such a list together. The School would pay the lad's first week's lodging, set him up in clothes, and require a report to be sent in from the home fortnightly until the original term of commitment had expired, after which a report might be sent in once a month, or once a quarter, for a year.

But something more is still required—some kind of supervision free from all suggestions of police; and that might be provided by the probation-officer (see Chapter XI.), a gentleman who had undertaken to watch over the welfare of the lad, to see him constantly, to help him

when necessary, in short to be his friend, and so true a friend that on his showing signs of breaking down and becoming idle, he would, at once communicate with the School, and, if necessary, have him taken back to it.

Such a system would ensure a training, subsequent work, a home, and a real friend; and we firmly believe, if once set on foot, would very speedily reduce the number of young loafers, for not only would it deal with those already loafing, but would be a serious consideration to a lad who thought of going "on the town." The fear of a smart School for one year or more would be a far more powerful agent in keeping him at work than the thought of fourteen days' imprisonment.

Failing this scheme, which involves the putting into effect of the recommendation of the Royal Commission already referred to, there is another alternative, *i.e.* to sentence young loafers to a term of not less than six months' imprisonment in one of the special prisons for dealing with young offenders under what is known as the Borstal system (Chapter X.), which is, briefly, the Reformatory system applied to a prison, and therefore handicapped with

many disadvantages. In this case also power might be given for the youth to be released on license before the completion of his sentence, work and a suitable home being found for him in the same way as under the previous scheme, his welfare after discharge similarly being looked after by the proposed probation-officer. *

This latter scheme is far inferior to the former, but would probably avoid the setting up of special buildings. Imprisonment, with its solitary cell¹ and its general surroundings, is not the best way of dealing with a boy whose misfortune is that no one has ever seen to it that he has been properly equipped as a worker. His life needs to be brightened and expanded, not narrowed and repressed within dreary prison walls. What is wanted rather is an institution which would endeavour to teach him just those rules of life and conduct which he must observe if he is not to be a continual nuisance and menace to the society in which he lives. Although beginning with the lad when so far advanced in years, it would, we firmly believe, succeed. The task of dealing with these older boys by reformative treatment should not in-

¹ See Appendix, p. 339.

deed prove too difficult, for they are often in a sense better material than the boys who are "caught young." If they have reached the age of sixteen without coming under the notice of the authorities, they are not likely to be very bad by nature, unless they are exceptionally clever, in which case their rescue is all the more desirable. Most of them, we must repeat, are not "bad" at all, but have succumbed to temptations peculiar to their age and station, or are the victims of sheer misfortune, or are mentally deficient.

The youth who has been in an Industrial School or Reformatory and has lapsed to the condition of the "outcast" (Chapter III.), might be treated in the same way, or sent to an Industrial School or Reformatory Old Boys' Home.

These lads would not, of course, *all* do well; some, alas! may seem too hardened and confirmed in depravity to be sensible to any good influence, and some may be inherently unfitted for industrial life and incapable of settling down to steady work. In these last there is perhaps some good, but they will not do well in a crowded community, and should be transferred

to freer surroundings. Take this example of a troublesome case:—A youth named K., on his release from Strangeways Prison, Manchester, was provided with work and suitable lodgings. After a few days he disappeared, but, on being rediscovered in prison, was promised another chance. When he came out he was supplied with decent clothes, and arrangements were again made for his reception into a respectable home. He went there, had dinner, walked out, promptly pawned the new clothes for 3s. 10d., and the same evening was back again in one of the lowest lodging-houses in the city without even a shirt. He is now (June 1906) in prison, and when he emerges arrangements will be made privately to send him to the country, where he will have a better chance of forgetting his old habits.

Different altogether, however, should be the treatment of lads (Chapters II. and IV.) who have come to the notice of the police and magistrates for offences under the Vagrancy Laws, when they can show that some sudden misfortune is the cause of their distressful position. The police might be instructed that thorough inquiry should be made into all cases where juvenile-

adults not known as bad characters are brought before the magistrates, and when it is found that a youth has worked for periods of six months or more with one firm—a fair indication that he *will* work satisfactorily—it might be made the duty of the authorities to see that work is found for him at a rate of wages sufficient for his maintenance, and a home provided where they would be responsible for the first week's lodging expenses. Objection may be raised to thus employing public money for the relief of one unfortunate class, but the economy of such a course compared with the maintenance of a boy during even one visit to prison is obvious.

Were a system of probation-officers in existence throughout the country the case might be referred to one of them, and he would find the boy both work and a home, and keep in touch with him afterwards. Only in some such way could properly individualised treatment be secured. For though we have described these boys for convenience' sake as "types," we must never forget that each is a distinct individual, whose personality needs studying and respecting in order that he may retain or develop self-

respect and realise the importance of his responsibilities. So long as he is dealt with, even well and suitably dealt with, as one of a class, he is too likely to appraise himself at the same value. The working expenses of the probation system on properly fixed scales would equally be guaranteed by the authorities.

A lad who turned out badly and did not keep to his work would, on a second charge, be sent to the special institution possibly provided for the "outcast" class of boy, or failing that, to prison for the Borstal treatment. In practice, however, we believe that if work and homes were found for them, the majority of these youths, the merely unfortunate, would never run any likelihood of drifting into criminality in the future, but would grow up to be good, steady working men.

Youths guilty of petty theft for the purpose of gratifying their hunger when out of work might be dealt with in the same way as those just referred to, while those thieving when *in work*, in order to obtain additional means for purchasing their various pleasures, might well come under the Borstal system.

'Some such alteration of the existing law as

we have sketched would give every chance to the unfortunate and to the outcast who want to work, whilst for the idler it would present terrors of which he now knows nothing. Twelve months or more in an institution, with real hard work, no "tabs," no music-hall, no wages, no betting, would be a very different thing from fourteen days in a prison, with its really little work, and loafing and idleness would be far less attractive than they are at present.

. Perhaps no better argument could be used for the immediate need for a more reasonable method of dealing with such youths and such offences as we have described than the figures shown in the accompanying tables, the details of which are official.

TABLE No. 3

ABSTRACT showing the Number of Male Prisoners in Birmingham, Durham, Liverpool, Manchester, and Pentonville Prisons on May 10, 1906, under sentences of three months and over.

	Birmingham.	Durham.	Liverpool.	Manchester.	Pentonville.	Totals.
Number of prisoners	218	127	301	412	603	1661
Ages—	...	...	...	...	1	1
Under 12	1	...	1	2	...	4
12 to 16	39	22	40	37	105	243
16 to 21	96	51	105	166	215	633
21 to 30	38	21	83	104	153	399
30 to 40	27	24	47	65	69	232
40 to 50	10	8	13	15	27	73
50 to 60	7	1	12	23	33	76
60 and above	...	...	...	...	...	...
Total	218	127	301	412	603	1661
Previous convictions—	21	19	31	29	55	155
Once	12	8	20	27	28	95
Twice	20	6	23	18	20	87
Three times	13	5	17	15	23	73
Four times	13	6	9	17	29	74
Five times	37	24	39	80	77	257
6 to 10 times	42	14	41	94	39	230
11 to 20 times	20	12	53	53	5	143
Above 20 times	40	33	68	79	327	547
Not previously convicted	218	127	301	412	603	1661
Total	218	127	301	412	603	1661
Number of prisoners previously convicted for begging and sleeping out	40	20	55	62	14	191
Number of prisoners previously convicted of simple larceny	133	67	140	254	205	799
Number and nature of offence on first conviction—	9	7	13	11	19	59
Begging and sleeping out	90	48	117	148	287	690
Simple larceny	119	72	171	253	297	912
Other offences	...	...	...	...	...	...

TABLE No. 3—*continued*

	Birmingham.	Durham.	Liverpool.	Manchester.	Pentonville.	Total.
Age at which first offence was committed—						
Under 12	3	7	5	18	11	44
12 to 16	35	17	39	45	46	182
16 to 21	86	29	97	124	153	489
21 to 30	61	21	79	95	177	436
30 to 40	16	12	45	32	128	233
40 to 50	14	4	19	14	49	100
50 to 60	2	...	11	3	23	39
60 and above	1	1	3	2	16	23
Number and percentage to total of prisoners under 21 on May 10, 1906, serving three months and upwards—						
Number	40	22	41	39	106	248
<i>Per cent</i>	18·34	17·32	13·6	9·46	17·57	14·92
Number and percentage to total of prisoners whose first offence was committed when under 21 years of age—						
Number	124	53	141	187	210	715
<i>Per cent</i>	56·88	41·73	46·84	45·38	34·82	or 43 per cent of total

Not ascertained, 115.

Total, 1661.

NOTE 1.—59 of the total, or 3 per cent, were first sent to prison for begging or sleeping out; 690, or 41·5 per cent, for simple larceny.

NOTE 2.—The total number of persons in the prisons named on May 10, 1906, under twenty-one years of age, was 248, or 14·92 per cent of the whole number, 1661.

NOTE 3.—The number of persons in the prisons named on May 10, 1906, who committed their first offence when under twenty-one years of age, was 715, or no less than 43 per cent of the whole.

TABLE No. 4

SUMMARY ABSTRACT showing the number of Male Prisoners in Birmingham, Durham, Liverpool, Manchester, and Pentonville Prisons on May 10, 1906, under sentence of three months or over.

Prison.	Total number of prisoners, May 10, 1906.	Total under 21 years of age.	Percentage to grand total.	Total prisoners who committed first offence when under the age of 21.	Percentage to grand total of prisoners.
Birmingham .	218	40	18	124	57
Durham . .	127	22	17	53	41
Liverpool . .	301	41	13	141	47
Pentonville . .	603	106	17	210	35
Manchester . .	412	39	9	187	45
Total . .	1661	218	15	715	43

A glance at Table 3 will show that in all the five great prisons named a very large percentage, varying from 34·82 per cent at Pentonville to 56·88 per cent at Birmingham, of the prisoners serving sentences of three months and upwards on May 10, 1906, were *under twenty-one* when their first offence was committed. Three per cent of the whole number (1661) first went to prison for sleeping out or begging, and no less than 690, or 41 per cent, for simple larceny. In the great bulk of these cases the

offender was not a criminal at heart at the time of his first offence, and more humane and considerate treatment would not only have kept him from prison then, but probably have altogether prevented his descent to a criminal career.

Two hundred and forty-eight, or 14·92 per cent, of all the prisoners referred to in Table 3 were under twenty-one years of age on May 10, 1906. For some of these an institution other than a prison is what was needed, and for many imprisonment is a social wrong, for which, however, the police and magistrates are in no way responsible.

That much can be done to reduce the number of young persons under twenty-one who become inmates of our prisons may be seen from Table 4. It will be noticed that Strangeways Prison, Manchester, although containing on May 10, 1906, no fewer than 412 male prisoners serving sentences of three months and upwards, only held 39 inmates under twenty-one years of age, or 9 per cent—practically only half the proportion of the juvenile-adults in Birmingham, Durham, and Pentonville, and very much better than Liverpool.

This result has been brought about in Manchester by a special system—a system managed

on the lines we have indicated—for dealing with juvenile-adults on their discharge from the prison, and also by the successful working of a scheme by which destitute lads may be referred by the police to certain gentlemen who are able not only to find them decent homes in working-class families, but also to clothe them and to find them work.

This system, with which one of the writers is most intimately acquainted, is one quite capable of successful adoption in other large cities. Surely if, as seems clear, nearly half the inmates of our largest prisons served their first sentence when *under twenty-one*, the number of prisoners must be largely reduced if the actual number of those *under twenty-one* within prison walls can be brought down to something like the present 9 per cent in Manchester, and possibly to a still lower proportion. It is certain that the stream of criminals which at present flows in and out of our prisons would be materially lessened in volume.

Accompanying any modification of the law should be regulations under the Local Government Board requiring workhouse authorities to provide separate and decent accommodation

for youths obviously workers (any experienced workhouse master could pick them out), advice as to the most likely place where they might find work, and a good hearty meal before sending them off in the morning. Such hardships as those which "Brown" (Chapter IV.) underwent should be rendered impossible. Local employers of youthful labour should be encouraged to advise the workhouse authorities of their needs, and, with good organisation, every workhouse might become an improvised labour-bureau. The decent lad looking for work should feel on all sides that the authorities wish to assist him, not that they regard him as a troublesome pariah. Everything possible should be done to help him to keep his back stiff, and sympathetic and common-sense treatment of the nature suggested would do much to empty county prisons and keep many a youngster from slipping down to crime. In short, wherever boys are dealt with, more discrimination, more individual consideration and sympathy are needed.

Continual reference has been made to the probation-officer. In Chapter XI. we shall point out, who and what he is abroad, and what he might be here.

CHAPTER X

THE BORSTAL SYSTEM

THE Borstal system we have several times referred to is concisely described by the Commissioners of Prisons (1905) as

. . . the application of a special set of rules, differing from ordinary prison rules, to young prisoners between sixteen and twenty-one; a system of hard work, strict discipline, tempered by contrivances of reward, encouragement, and hope; and resting, in the ultimate degree, upon means of rehabilitation to honest life, provided by an association known as the Borstal Association, composed of earnest and philanthropic gentlemen in the Metropolitan district, who devote much labour and care to these lads, and depend principally upon resources provided by well-wishers and friends;

and the Commissioners go on to say that the further development of this work is necessary

. . . if a real and serious effort is to be made to deal

with on rational lines, and, if possible, to reclaim at least a percentage of those 16,000 lads of this age who passed through our prisons last year. They are mostly young thieves—sixty-eight out of the seventy-six cases dealt with by the Borstal Association being convicted of the various forms of theft and fraud. As is well known it is these offences which dominate the statistics of serious or indictable crime, and it is a sad and significant fact that 40 per cent of these particular offences are committed by young persons under the age of twenty-one. This, then, we regard as the great field for prison labour and reform. If we can check this particular offence at its beginning, before the criminal habit is formed, we shall slowly, and by degrees, be making some impression on the mass of professional crime, or what is technically called “recidivism,” which is the bane, and the puzzle, and the social problem of this as of all other civilised countries.

And they conclude this part of their subject:—

We propose further, where the length of sentence does not admit of treatment under Borstal rules, to adopt, so far as length of sentence will permit, the principle of the Borstal system for *all offenders*, sixteen to twenty-one, committed to prison. Having regard to the general shortness of sentence, this will not mean much more than (a) strict segregation from adults; (b) physical exercise and drill; (c) weekly lectures and

addresses in class; and (d) special machinery at each prison for the after-care and disposal of these cases. It is proposed, if possible, to affiliate to the central, or Borstal Association, certain persons at each prison in the country who may be willing to devote themselves to this particular work. We rely almost entirely on the active co-operation of the magistrates at each prison. . . . It is obvious that if this scheme can be realised the functions, and duties, and experience of the Borstal Association will be enormously increased. It may, in due course, be our duty to approach the Secretary of State with a view to some further recognition by the State of the public services discharged by this Association. The expense will not be great, and we are encouraged to hope that such support may be forthcoming, relying upon the words of the Committee of 1894 "that even a moderate percentage of success would justify much effort and expense being devoted to an improvement of the system."

The following account is drawn almost word for word from the Annual Reports of the Association issued in 1905 and 1906, and from the Blue Book quoted above.

The system began in 1902 with the collection at Borstal Prison, near Rochester, of cases of six months and over from the London prisons.

As six months was found too short a period for any real improvement to be made, lads whose sentences reach twelve months are now selected from throughout the country for the treatment.

On arrival at Borstal the system is explained to the prisoner by the Governor, who points out the benefits which will follow a hearty acceptance of it. He is placed in the ordinary grade (brown dress) and allotted to a working party for field-work, carpentry, bricklaying, painting, market-gardening and flower-culture, shoemaking, blacksmith's or tinsmith's work, or cooking and bakery. After five months unbroken proof that he is doing his best he may be promoted to the special grade (blue dress), but if he behaves badly he is reduced to the penal grade (drab dress), as a member of which he will be allowed no books from the library, no visits from friends, and no letter-writing.

He rises at 6 A.M., cleans his cell, etc., breakfasts on bread, butter, and gruel at 6.30, and at 7.30 attends service in the chapel. After drill and physical exercises he goes to work till parade at 11.30, which is followed by a dinner of haricots, potatoes, and meat and soup alternately.

After dinner he can read or knit till 1.15, when work begins again, and continues till supper (bread and cocoa) at 5.30. Then he reads or knits again till bed-time at 8, or, if in the special grade, enjoys, two or three times a week, an hour's recreation in the school-room, under the supervision of the chaplain. If he is not up to Standard III., he receives education at the rate of two hours a day; if he has passed that Standard, one hour.

The Governor reported that the output of work in the year ending March 31, 1905, had been extensive and of good quality, its value amounting to £1290; that drill had materially improved the general physique; and that general conduct had been very good.

The Borstal treatment was introduced at Dartmoor Prison in 1903 for lads undergoing sentences of penal servitude, twenty-six being selected for the experiment. They gave considerable trouble at first, as they found the discipline stricter and the work harder, and resented the term "juvenile" and the complete separation from the other convicts. Since May 1905 all the "star-class" juvenile-adults from other convict prisons have been collected in Dartmoor.

Most of the forty who then arrived were "accidental criminals" (*i.e.* guilty of crimes of passion and temptation not likely to recur), well-behaved, and of good character, and are likely to do well on discharge. All the plumbing and gas-fitting of the prison and warders' quarters is done by the boys; twenty of them are constantly employed in building cottages for the warders; others look after the eighty horses and ponies, break them in and act as carters; and basket-making, shoemaking, and farriery are also taught. In school the syllabus has embraced elementary science, reading, easy mathematics, history, composition, geography, and drawing, with Roman history for moral instruction. At the end of March 1906 there were eighty-one boys in the prison.

The discipline is far more strict than in a Reformatory; and as there is no association except during the hours of labour, there is less risk of a bad boy contaminating his companions. To induce emulation, a graduated scale of small indulgences, earned by marks for industry and conduct, has been introduced, and has rendered punishment almost unnecessary.

• The question is sometimes asked whether this

system is not an unwise softening of the ordinary treatment in prison. On the contrary, it makes far more demands than does the ordinary prison, not only on the passive obedience of a lad, but on his output of positive energy. Granted that the work in association is more interesting than the making of coal-bags in solitary confinement, yet the chances of getting into trouble in a workshop or field-party are much greater, and the discipline is more apparent at every turn. A shut cell-door is conclusive, but it does not say "Don't" all day; and that is what a lad who is at work with others under a craftsman-warder has to stand without answering back—a terrible discipline to those who have been used to put on their coat if an employer ventured to blame them, and a good discipline for after-life, for which solitary coal-bags are no preparation at all.

That the special grade should be so sought for when it can be obtained only by blameless conduct for five months, and means little more than a few games of draughts a week and a few spoonfuls of golden syrup on Sundays, is perhaps good evidence that there is no undue pampering.

'An essential part of the system is that each

lad is treated individually. From the moment he enters the prison, his disposal on discharge is kept steadily in view. The trade most likely to be useful to him is chosen. The addresses of respectable friends who will correspond with him are hunted up. Every fact bearing upon his character is noted, as it comes to light, in the big ledger known as the Character Book. As his discharge approaches, the Borstal Association, between which and the prison there is complete co-operation, begins to take him in hand, every lad passing into its care when he leaves, unless he declines assistance. For some time before his release he is visited, and encouraged to talk freely on his hopes and prospects. The information which has been collected by the authorities as to his previous life and conduct in prison is also placed at the disposal of the visitor; and the Association begins, by correspondence with friends and past or possible employers, to pave the way for an immediate beginning of work on his discharge.

It should be remembered that these lads have, as a rule, never made a proper start in life. Few of them have reached a respectable standard at school, which suggests, and on inquiry reveals,

a long series of stolen holidays, often spent on mischievous, or criminal expeditions.

Emerging at fourteen years of age from even the nominal control of school, they have seldom settled to any work at all, and hardly ever to work which they wished or were able to retain for any length of time. Three months is a long time to be at one job, and the gaps between jobs have been steps on their downward course. Short sentences have followed in a long useless series, until their grim record, or the sympathy of an exceptional court, has procured for them a sentence of such length that it is possible to train them under the Borstal scheme of reformation.

It is not too much to say that twelve months under that treatment, with its hard work, its regular hours and simple food, have wrought wonders with most of these lads.

They were mostly thieves—only nine of the last eighty were convicted of crimes other than theft or house-breaking—and they went into prison shiftless, idle, and dangerous. They came out so altered, morally and physically, that, given a chance of it, more than half of them were willing and able to engage in regular honest employment.

To give them that chance is the business of the Association.

On discharge, a lad is brought direct under the charge of a warder to the honorary secretary, the agent also being always present, and it then becomes their duty to keep in as close personal touch with him as circumstances will allow. Unless he has a suitable home to go to, lodgings, of which the Association keeps in touch with nearly a hundred, are found for him. As soon as possible he is set to work; in some cases it is ready for him, in others the employer must see him before taking him on, in yet others there is a period of waiting, especially in times of bad trade. If the work is to have any permanent value, the lad must be visited often during the time of danger which follows on his sudden change from prison to complete liberty, and must, indeed, be nursed to some extent until he is able to go safely by himself, and is convinced by habit that in any difficulty he may look to the Association.

On an average, a fresh entry on the record of each case is made once a month. When a lad shows that he is really doing his best, he is encouraged and helped to persevere in his good

resolutions, in various ways. It is naturally no easy matter to decide what is best for the different types of character, capacity, and physique that the cases represent; but the Committee believe that every young criminal who shows the slightest tendency to respond to their efforts is given a chance of better things.

With regard to employment, the success of the Borstal system rests mainly and ultimately on the willingness of employers of labour to give, now and then, to one of these lads a chance of making a good start at honest work. It is a form of service to the State, not showy or attractive or easy, but of its immense value there can be no doubt. It gives help to those who with it may grow into steady citizens, and without it may soon relapse into little better than dangerous wild beasts.

Of seventy-six lads—all but six with a record of previous convictions—who passed into the care of the Association in the year ending May 31, 1905, a wholly satisfactory account is given of thirty-six. Of eighty-one dealt with in the following ten months, forty, at the time the Report was issued, were known to be at work, mostly good work; nine had “gone home to

work in the provinces"; six were "on hand"; six had disappeared; four were given up as they would not co-operate with the society, and sixteen had been re-convicted. The Association also gave a second start to twelve lads from previous years who, through no fault of their own, had come to need it, and helped a few recommended from other prisons. When boys are living too far off to be visited, correspondence is kept up with them and with their parents. In some cases expressions of gratitude have been accompanied by a refund of the money spent on them.

The Borstal system is without doubt an immense improvement upon anything that has been previously tried in this country. In many cases the discharged prisoner is hardly recognisable as the same young criminal who received the sentence. The habits of industry acquired in the workshops or on the farm, the improvement in intelligence and physique, are of incalculable advantage. But in order that these benefits may be reaped to the full, the Committee are strongly convinced that a change in the criminal law is necessary, and they find in the system one serious fault—that it does

not go far enough. It trains the average lad admirably for what he, as a rule, knew nothing of before—regular and hard work; and then it turns him out on the world, absolutely free to go to work or not as he chooses. This is obviously absurd, and in practice leads to a great and unnecessary waste of men and work and public money. What is needed is a change which will enable courts of justice to commit a young offender to Borstal for a long period, with a power of discharge on conditional license, so that the State may maintain control over a lad for a considerable time after his discharge, and may resume more complete control by revoking his license if he shows that he is not yet fit for freedom. This would be the saving of many a lad, and applies especially to offenders of the coster or newspaper-selling class, from which the failures are chiefly drawn. The time of detention is not long enough to enable them to learn a trade and to forget the “attractions” of life in the streets of London. They have owed their failure in most cases to a complete lack of parental or other control, and if their reformation is to be complete the State must supply, in the person of guardians appointed

by it, the influence and control which, under happier circumstances, they would have found at home. If a prisoner, released on license, were liable to go back in case of misbehaviour, the something more than "moral suasion," which is often required, would be at the command of the Association, and would enable to exercise a far greater control over cases of discharge. The Committee feel sure that in the extension of the control of the State in the direction indicated there is good promise of far-reaching and economical reform.

Nor would the lads themselves or the relatives resent this. On the contrary, they frequently, both in conversation and by letter, express their gratitude for the interest that has been taken, and they often keep up a friendly correspondence long after they are fairly afloat.

Part of the prison at Lincoln is, in the near future, to be utilised for the treatment of juvenile-adults from the north of England, on Borstal lines.

CHAPTER XI

PROBATION-OFFICERS

CONSTANT reference to the system of probation has been made throughout these pages. It is in force in various forms in most of the continental countries, and United States of America, and appears to be working excellently, and it is probable that in this country also the organisation of a regular body of probation-officers would go far to prevent the development of criminality among lads. Private devotion in this direction may do much, but for the best results the power of the State must join hands with philanthropic effort, and the problem of dealing with erring youth be recognised as equally social and judicial. Those who undertake the task will work all the better if they feel they are part of a definite and well-organised system.

Like many "new inventions," the idea of probation is not so new as is generally believed. An Austrian law of 1788 enjoined that any prisoner who had served half his sentence, and behaved so as to give promise of permanent reformation, should be discharged, and the Commission which compiled the law advised that release should only be granted if some upright men were prepared to give assistance and supervision. The proposal was, however, rejected.¹ For practical purposes the system originated in Massachusetts, where it was first recognised by a law passed in 1878, and the staff of probation-officers in that State now amounts to some eighty persons, appointed by the judges for an indefinite period. In theory probation there rests on two principles: (a) It draws a distinction between those who from some definite cause—*e.g.* want of work, hunger, evil companionship, some strong and unusual temptation or sudden impulse of passion—have transgressed the law, and those who are of thoroughly vicious and criminal tendencies. (b) It is a postponement of condemnation while an experi-

¹ Dr. J. M. Baernreither, *Jugendfürsorge und Strafrecht in den Vereinigten Staaten von Amerika*, p. lxvi. Leipzig, 1905.

ment is made to ascertain whether the object of rendering the accused a safe member of society can be attained without punishment.

It can show as its fruit large numbers of persons who have taken a first and sometimes a serious step in a criminal career, and who, by the friendly oversight, counsel, and assistance provided by this system, and by its strong and constant appeal to the better judgment, have resisted all temptation to return to a life of crime, and are self-supporting, self-respecting, useful members of society.¹

The procedure in Massachusetts is as follows. The clerk of the Court notifies the proper probation-officer of each case of a first offender; he then has to make every possible investigation into the circumstances of the culprit, and the causes or motives of his offence. He is present at the trial, and reports the results of his inquiries, and the Court, if it find the accused guilty, thereupon considers whether he is a fit subject for probation, and, if he is, determines the period during which it shall be enforced, the probation-officer becoming "his bondsman to

¹ *Report of the Probation Commission of the State of New York*, 1906, p. 42.

save him from prison.”¹ If he think it desirable, the probation-officer may, before the expiration of the time appointed by the Court, apply for an extension ; wives have been known to show their appreciation of the restraining influence by begging probation-officers to do so on their husband’s behalf. The probationer must write once a month to the officer, visit him or receive visits, notify him immediately of any change of address, and “diligently pursue some lawful employment.” If he fail to fulfil his engagements, and prove unfit for freedom, the probation-officer surrenders him to the Court, which then condemns him on surer grounds than if probation had not been tried. In the case of young persons there is, however, a danger of resorting to probation when circumstances do not give every possible assurance of success, and so losing time which ought to be made the most of in a school. We are told, for instance, that in Boston “every other means is exhausted before sending a boy to a reformatory. The (Children’s Aid) Society sometimes places a child in three or four families in succession, in an attempt to find persons who will

¹ See Appendix, p. 351.

understand how to manage him.”¹ This constant change is very bad for a child and altogether a mistake. In Massachusetts, as in most of the United States, the probation-officers receive salaries of from 1500 to 1800 dollars, their expenses are paid, and they are authorised, when necessary, to give monetary assistance to their charges, or pay their railway fares to places where they may obtain employment. No good statistics have been kept of the results, but apparently the successes may be reckoned at about 65 per cent. In 1903, 8140 persons of all ages were placed on probation in this State, and of these 1904 were under twenty-one, and 705 between the age of seventeen and twenty-one.²

The American system has been described (see *The Morning Post*, Aug. 21, 1906) in connection with a scheme now before the public as “committing an early offender . . . to the care of a probation-officer in place of sending him to gaol for a period equal to the term of imprisonment

¹ *Report of the Proceedings of the Third International Congress for the Welfare and Protection of Children*, 1902. “The American System of Probation-Officers,” by Miss Ada Eliot, probation-officer of the city of New York.

² Baernreither, chap. vi.

that would otherwise be passed upon him." This would be quite meaningless: of what permanent use could supervision for seven or fourteen days, or even a month, in most cases be? It is true that in certain States probation is only exercised during the *maximum* term for which the offender *might* have been committed; but the recent Probation Commission of the State of New York expresses itself strongly in its Report, 1906, in favour of the *minimum* period of oversight being fixed at one year (see pp. 19, 50, 63), observing that during the first two or three months, with the shock of the arrest, trial, and conviction fresh in his mind, the probationer is less in need of the guidance, moral support and aid of a wise friend than he is later on. The probation-officer of Brooklyn, after nine years' experience of 1184 cases (of which 191 were re-arrested), goes further, as he "does not consider it safe to form a final judgment" of the results of probation under three or four years, and "aims to maintain friendly relations indefinitely." This official visits the persons under his care at least once a month for a period of six months, and afterwards less frequently.

Though, in Massachusetts the Probation Law applies to adults and children, alike, and though in New York it was first passed, in 1901 for persons over sixteen only, in most of the States the system is intimately associated with the juvenile courts, and we shall therefore deal with it more fully in the next chapter.

But it is in connection with "release on parole" that probation plays an even more important part in America, for the Reformatory system both for juveniles and adults is based upon it. A boy or first offender is committed to a Reformatory under an indeterminate sentence, with, however, a minimum and maximum term,¹ the latter in the case of a minor not exceeding his majority. By good conduct he can earn his release in a comparatively short time, and he is then placed on parole under the supervision of a probation-officer, work and a home being of course found for him before his discharge. Sometimes the board of managers of an institution, as is the case with that of Elmira, undertakes or supplements the duties of the probation-

¹ The minimum stay at Elmira is one year, the average stay twenty-one months.—*Elmira Year-Book*, 1892.

officer.¹ The Reformatory is regarded only as one stage on the way towards the moral recovery of an inmate. On his release begins a second and no less essential stage, and it is then that the work of the institution is put on its trial and tested; for the aim of the Reformatory must always be to make a man or boy fit to live a decent life outside it. In the often difficult and critical process of readapting himself to normal conditions of freedom,² or rather in many cases of adapting himself to conditions of honest industry and respectable family life he has never known before, the American youth has the firm but kindly support and advice of his probation-officer to rely on, and the knowledge that if he wavers and stumbles he will be sharply pulled up and possibly sent back to the Reformatory.

The German method of supervision, which came into effect in 1901 with the law passed for the care of neglected and offending children under eighteen, differs considerably from the

¹ *Report prepared for the International Prison Commission, Washington, 1899; The Indeterminate Sentence, by Warren Spalding; and Annual Report of the New York State Reformatory at Elmira, 1906.* See Appendix, p. 322.

² Cf. Baernreither, pp. xlii.-xliii. See Appendix, p. 340.

American system. A Court of Guardianship (*Vormundschaftsgericht*) formed of local officials hears the case as stated by the parents, legal representative of the child, parish council, clergyman, and schoolmaster. The governors of gaols in which juveniles are serving terms of imprisonment must consult with the other officials, including the chaplain, doctor, and schoolmaster, as to whether their cases should go before this Court; and if they do, it must be arranged that committal to an institution or to the supervision of a probation-officer should be simultaneous with release. If the Court of Guardianship decides that a boy or girl is to come under the operation of the law, another local official has to report on the personal history and circumstances, and express an opinion as to whether the child should be committed to the care of a family or of an institution. When he is committed to his own or another family, a *Fürsorger*, or guardian, must be appointed, whose duties practically correspond with those of the American probation-officer, but who differs from him in having a quite informal and unofficial, though not less esteemed position. A clergyman, schoolmaster, member of a philanthropic society, or any suitable

person residing conveniently near, is simply asked to look after a boy who requires supervision, and either directly or after a period in an institution or prison, has been placed in a family, apprenticed, or provided with work. Such lads are always, if possible, sent to the country. The *Fürsorger's* appointment is a post of honour, necessary expenses being refunded by the authorities. He must watch over the conduct, upbringing, and treatment of his ward, must visit him and assure himself that all is in order, that church and, if he be a child, school are regularly attended, and the terms of the contract conscientiously fulfilled by the head of the family with which he lives. If the lad is apprenticed or at work he must see that his services are suitably rewarded, and that a portion of his earnings is placed in a savings' bank. Twice a year he must make a report to the officials. His responsibility continues until his ward attains his majority; but when the possibility of renewed trouble seems excluded, the child may be released from guardianship at an earlier date. If his release is conditional the *Fürsorger* must however, if practicable, continue to exercise surveillance. The system as compared with that usual in

America seems to possess the advantage of establishing a closer relationship between the probation-officer and his protégé, as a *Fürsorger* has, as a rule, only one ward to whom to devote his attention, and the connection may continue for several years, three being the normal minimum, *i.e.* from eighteen to twenty-one. In practice, however, it is probable that the expert probation-officer, who traces the case from the beginning and is thoroughly experienced in the work, giving his whole energies to it, has more insight, sympathy, and understanding for the lads with whom he deals than a man whose main interests may lie in quite other directions. In the report, *e.g.*, from West Prussia on the working of the law in 1904 complaint is made on this score, and clergymen are stated to have proved themselves particularly inefficient.¹

When a boy is placed out on probation after a period spent in an institution, the director of it, if he live near enough, visits him once a year. He also interviews the head of the family with which he is lodging, his employer, and his *Fürsorger*, and thus has an opportunity of

¹ *Statistik über die Fürsorgeerziehung Minderjähriger für das Rechnungsjahr, 1904.* See Appendix, p. 251.

giving advice, or discussing, if occasion arise, the expediency of returning him to the school.¹

A form of probation is also being tried in Berlin in connection with the municipal Reformatory at Lichtenberg. Lads over eighteen, if judged promising cases, may be sent there by the Courts instead of being consigned to prison, and whether, after all, they will have to serve their sentences or be excused depends on the report of the director. Several lads of from eighteen to twenty years of age are in the Reformatory on these terms, and though they can only be kept there a few months, the arrangement seems to be very successful.

In Hungary lads who leave the Reformatories before the age of twenty are placed under the care of probation-officers similar in character and position to the persons chosen for the task in Germany. Periodical reports on their conduct are made to the authorities of the institutions, who, however, when their pupils continue to live in the neighbourhood, undertake the duties of supervision without aid.²

¹ Baernreither, p. lx.

² Dr. Béla Kun et Dr. Etienne Laday, *La Lutte contre la Criminalité des Mineurs en Hongrie*. Publié par le Ministère Royal Hongrois de la Justice, Budapest, 1905, pp. 170-171. See Appendix, p. 287.

* But as far as regards the general practice of the probation system, the above account of the methods followed in America and Germany will suffice, for the main idea is the same in all countries where it is found.

In Holland,¹ Belgium, France,² and Switzerland we find *Sociétés de Patronage*, i.e. authorised private bodies who assume the functions of probation-officers on behalf of youths who are brought before the Courts or discharged from Reformatories. The surveillance exercised by members of these societies sometimes continues for several years.

The system in one form or another is also in force in Canada, and in most of our Australian colonies. In Victoria, for instance, first offenders under twenty-five may be pardoned and placed on probation.³ In New Zealand, where a First Offenders' Probation Act was passed in 1898, it is claimed that 94 per cent of those released on probation

¹ *Revue Pénitentiaire*, Nov.-Dec. 1905. Dr. J. A. van Hamel, "La Nouvelle Législation pour la Protection de l'Enfance en Hollande." See Appendix, p. 279.

² See Appendix, p. 229.

³ Rosa M. Barrett, *Foreign Legislation on Behalf of Destitute Children*, 1896.

turn out well—a wonderful record, if strictly accurate.¹

Now, how might this system of probation-officers be most advantageously employed in dealing with the youths we have made the subject of the preceding chapters? •

As we have seen, probation-officers may be either paid or unpaid; probably in this country a body of citizens having the welfare of the young at heart, anxious and willing to do something to help them, would be more effective than any system of paid officers; though American opinion, based on experience, is in favour of having “at least one paid probation-officer in general direction of the work.” It is practically certain that there would be no difficulty in finding any number of suitable persons ready, under proper guidance, to undertake the work, and there would be no question of the sincerity of their devotion to it. They would be known in their various localities as interested in philanthropic work, and frequently would be men of position and influence which would help them in obtaining work for their young protégés. Some,

¹ *Good Words*, June 1901. Rosa M. Barrett, “Hooligans at Home and Abroad.”

no doubt, would be supplied by charitable societies, but, on the whole, independent gentlemen with leisure at their disposal would prove the most satisfactory. An officer provided by a denominational body would be under a certain obligation to promote its aims,¹ and would often in the mind of the probationer be open to the suspicion of trying to "get at" him for religious purposes. It is his *temporal* welfare that must be the prime object of the probation-officer's solicitude, and there must be no question in a lad's mind as to his absolute and single-hearted disinterestedness in the pursuit of this. The probation-officer should indeed, when possible, be of the same religious persuasion as that in which the boy in his care has been brought up, but he should on no account thrust religion at him, or indeed talk about it at all until some degree of intimacy is established and he is quite sure that the subject will not be distasteful. There may be, unsuspected to himself, a hidden sanctuary in the soul even of the young criminal, and he will rightly, though he knows not why, resent the insolence which would invade it. A

¹ Cf. *Report of the Probation Commission of the State of New York*, 1906, pp. 56 and 75. See Appendix, p. 346.

boy who has been "down on his luck," and met with nothing but harshness and rebuff, will have too much appreciation for the naked truth of things to care to *hear* about Christian love and brotherhood; let him first realise in the lives and characters of his probation-officer and the people he lives with that such words are not altogether meaningless.

In large towns and cities a district would be assigned to each officer, and in the event of a lad from his district being brought before the magistrates it would be his function to make a searching inquiry into all the circumstances that had led to his arrest, to acquaint the Court with the results of his investigations, and if the lad were dismissed to his care for, say, six months, to find him employment and a home, to make every possible arrangement for his general welfare, to visit him regularly, and be to him not so much a preventive officer as a friend. He would study his individual temperament and character, draw from him the whole story of his temptations and his troubles, and by giving richly of his own personality develop that of his protégé, and make him once more feel confidence in himself.

The keystone of the whole system is precisely this element of the personality of the probation-officer. Zeal and devotion are essential, but zeal and devotion can do little without the magic touch which will make the boy realise at once that he is understood, that his character is laid before a just and stern, but kind judge—a man who stands so much above any friend he has ever known that he is uplifted, and his nature expands to feelings of reverence and admiration. Many a lad may feel all this but very dimly, in his poor, starved, stunted mind; still, if he feel it at all, if he merely feel that somebody *cares* whether he does right or wrong, it opens infinite possibilities of development. No one has a truer instinct than a boy for seeing into the heart of anybody who approaches him; a very few minutes will enable him to discover whether he is “a good sort,” and anything of the nature of condescension, cant, or sentimentality will freeze his confidence and awaken contempt and cynicism. The ideal probation-officer, therefore, should combine in a very high degree the qualities of sympathy, insight, tact, common-sense and strength; if he does, his opportunities will be varied and unlimited. The lad who is

straightforward and diligent will find him simple and natural as a boy, and confide in him as his best friend. The vicious and idle youth will feel some stirrings of conscience as long-buried shame struggles for rebirth, and will regard with fear and wonder the man in whose presence evasions and lies so unaccountably wither.

We have dwelt on this element of personality in the probation-officer because it is of the utmost importance, but we must not have flesh without bones, and neglect the more material side of his functions. There is one qualification that is still more essential—a qualification without which all others become practically useless—and that is his *ability to supply work*, genuine work, not a task of specially-provided wood-chopping or the like. So he must keep himself intimately in touch with employers of youthful labour and know how to win their interest and co-operation, and he should be a good judge of the kind of work at his disposal for which a boy who comes into his care is best suited.

And since “all work and no play makes Jack a dull boy,” he should seek to interest his probationers in wholesome forms of physical and

mental recreation, that they may no longer crave the excitement of gambling, betting, and other dangerous and vicious amusements. He will persuade them to join boys' clubs, brigades, evening classes and the like, and by bringing them into contact with steady working lads effect the intellectual and social rehabilitation of those who have fallen.

He would submit reports fortnightly, or as might be required, to the chief probation-officer of his district, and the latter, in his turn, to the authorities in London, who would compare and examine methods and results, and issue directions which would, as far as might be, ensure unity and consistency.

If a boy showed no signs of improvement, the probation-officer would report accordingly, and the lad would then be again brought before the magistrates and committed to an institution such, if possible, as the Short 'Detention School suggested in a previous chapter. And our ideal probation-officer must be of stern metal, and let no excess of gentleness or false compassion deter him from consulting his protégé's best interests by taking this step without undue delay. Even the lad he finds it expedient to

consign to severer treatment may not be without some benefit from the connection—may feel some shame or regret when it is severed, or perhaps, years after, remember that there was once a “bloke” who wanted to make a man of him. He would, of course, be again placed on probation on his release from the School, but it would generally be found advisable to give him his fresh start amid new surroundings.

It is hardly necessary after the preceding chapters to specify all the youths who would come under the operation of this system, but we will just refer to two classes who would derive especial benefit from it. These are—(1) the decent lads, homeless and without friends, who are brought before the magistrates for offences under the Vagrancy Acts. Such lads, on being committed to the care of the probation-officer, would be placed by him in one of the good homes of which he would have made it his business to obtain particulars, and in which a boy paying 10s. a week would be welcome. The authorities would be responsible for the first week's lodging money and for the cost of the necessary clothes to restore respectability and self-respect—an outlay of about £2 in all.

Probationers of this type would require practically no supervision—they would be only too thankful for the opportunities provided. Were the existence of probation-officers once an established fact, it is likely that many of these respectable youths would voluntarily seek their aid, and when misfortune had left them no alternative but “sleeping-rough” and begging, escape the degradation of the police-court by placing themselves unofficially in their care.

And (2) lads discharged after serving their term in Industrial Schools and Reformatories would be supervised by the probation-officers of the districts to which they returned, the School authorities having entered into communication with the officers concerning their character and antecedents, and continuing, when not prevented by distance, to co-operate in the surveillance. The boy obliged or persuaded to return to the bad environment from which he was removed as a child might find in the encouragement of his probation-officer just the support necessary to keep him from backsliding, and his visits might in some cases even affect the whole family, as is said to be sometimes the case in America. If

the boy found that his relatives had deceived him to secure his return, or if, conscious of temptation, he were anxious to escape from evil influences and depraving conditions of existence, the officer would find him a home, probably at a safe distance from his own.

All youths would remain on probation just as long as ordered by the respective authorities, the officers being empowered to recommend extension when expedient. It is not probable that each probation-officer would have more than a few a year to supervise; the number of such lads in large cities would be dealt with by an increased number of officers working in smaller districts. Many ex-probationers would no doubt keep up the connection, and in some cases gratitude would make them ready to help and encourage their successors.

The machinery for working the system would probably be rather expensive, but its immense value to the young people coming under its operation would far outweigh the cost. Those who on sordid grounds would shrink from establishing it may reflect that it is by no means improbable that the gradual but sure diminution in the number of inmates of the country's prisons

would itself balance, or more than balance, the working expenses.¹

What is certain is that it would give hundreds of youths a chance they do not now possess, and ensure that no decent lad would ever have to go to prison as the first step to a criminal or vagrant career for which he has no natural inclination.

On page 356 of the Appendix will be found statistics of a scheme in operation in Manchester for helping lads of sixteen to twenty-one on their discharge from prison. The treatment has been such as we advocate for these boys without previous imprisonment, and there is little doubt that if the law were altered so as to render this possible, the results would be equally good, or even better.

¹ Cf. *Statistik über die Fürsorgeerziehung*, 1904, p. xxxv. Cf. also pp. 42 and 43 of the *Report of the Probation Commission, New York*, 1906. See Appendix, pp. 251, 346.

CHAPTER XII

PROBATION-OFFICERS AND CHILDREN'S COURTS

THOUGH all that has gone before especially refers to youths of from sixteen to twenty-one years of age, and not to juveniles, any reference to probation-officers would be incomplete if it failed to bear upon their relation to children brought before the Children's Courts, as they are termed, which are rapidly becoming established in the cities and towns of the kingdom. As the rigid line of demarcation drawn at the age of sixteen is one of the great errors of our present system, some account of the methods now considered expedient with children under that age may be suggestive of the right course to pursue in dealing with "juvenile-adults."

The main idea of the Children's Court is, of course, to keep the child away from all the general sordidness of the ordinary police-court,

out of hearing of much that is vile and of the conversation of the regular habitués of such places, to save him from the stigma and publicity of an appearance there, and to ensure, as far as may be practicable, that he shall be treated *as a child* in a parental rather than a magisterial manner. A boy or girl who is brought before an ordinary Court and dismissed will often remember nothing but the aspect of the Court itself, the policemen, the clerk, the magistrates, some particularly wretched-looking man, woman, or child. The actual proceedings will have been unintelligible and unimpressive, and the whole experience will have produced the worst effect possible on a young and susceptible mind, an effect all the more deplorable when, as is often the case, the child is quite untainted with vice. A hardened boy of fourteen or fifteen who finds in the records of crime his favourite literature, will, after the event, rather exult in the publicity and in the sense that he has been through a grown-up adventure, and may do incalculable harm by boasting of it to his fellows and posing as a hero before them. The very name of the Children's Court is enough to destroy any glamour of this sort.

No set code, no hard and fast line of treatment can be measured out for children. Each requires to be dealt with differently: his past history and whole manner of life, his natural bent, his behaviour at school or at work, the amount of parental control exercised over him, his physical condition, must be investigated, and all this should be done simply and naturally, without a parade of law and formality which inspires perplexity rather than reverence. If the child can be brought by a separate entrance into a private room, where he is received by one or two magistrates so gifted in their knowledge of children and their ways, particularly the ways of very poor children, that they at once gain his confidence, he can often be persuaded to tell his story quite naturally, and the real causes of a tendency to petty theft or other delinquency can be ascertained. He should feel he is before a stern but kind master or counsellor, and the impression left on the mind by a visit to such a Court should in many cases bear most excellent fruit. For the first time in his life there may be in him as he leaves it some dim apprehension of abstract justice, of a dignity in the law other than that represented by the policeman, some

realisation that life is serious, and doing wrong not a mere "affair of incurring punishment and blame, but a thing which really matters.

The magistrate or judge should, if possible, be a specialist at this work, to whom through insight and experience the few words of accusation or defence will be pregnant with meaning, and who will be quick to detect the truth underlying the plausible and tearful assurances of parents or guardians that they have done their best for the child. He should be intimately acquainted with all the agencies and institutions to which he may refer each individual case, so that his diagnosis may be followed by the prescription of the most suitable remedy at his disposal. A magistrate who, without special interest in young people or knowledge of their characteristics, simply takes his turn at the Children's Court with a mind full of the details of adult crimes and attuned to severity, will hardly be in the best mood for considering and sympathising with childish delinquencies. On the other hand, a lover of children, touched by the contrast to his usual work, may be disposed to ill-considered and ultimately unkind leniency. A constant rotation of judges is destructive of the consist-

ency and symmetry of method, to secure which is one of the objects of a Children's Court, and its effect on a system of probation, if established, is still more unfortunate. How can there be any continuity in the treatment of a probationer who, on a fresh appearance, is confronted by a magistrate who knows nothing of his case, and perhaps fills him with renewed feelings of shyness and confusion ?¹

A waiting-room should always be provided, so that only one case be admitted to the Court at a time. For a child overwhelmed with shame at his situation nothing could be worse than to hear the details of a more serious offence and think, "Well, at all events, I'm not so bad as he is."

But it would be very unwise because, happily, a movement has begun for treating children in this rational way, to neglect the opportunities for securing their future welfare by sending them to institutions. An idea seems to be becoming very prevalent that a system of probation-officers would largely do away with the need for Industrial Schools, etc.

¹ In Maryland and Indiana judges are appointed exclusively for the Children's Courts. Cf. also Appendix, p. 340.

The probation system . . . is not free from dangers. These dangers arise in the main from a disposition to regard "the newest thing in social advance as a panacea, and consequently to apply it without due discrimination. Probation . . . is not in all cases, even of juvenile offenders, a proper substitute for commitment. To fail to place the offender under a vigorous corrective discipline when such course is clearly indicated by the circumstances of the offence and the previous character and present disposition of the offender, is an evil only less serious than to imprison the offender when the circumstances would justify his release upon probation.¹

The probation-officer should really *supplement* and render more valuable and permanent the work of the Industrial School, and even aid in the discovery of children who ought to be in it. In the great majority of cases such as are now sent there, he could never be as effective as the School would be, and is, in training a child to become a good worker and citizen. In Germany the experiment of leaving probationers in the care of their parents has met with little success, as it is found that, even when the home is fairly good, parental authority is too weak to be of much

¹ *Report of the Probation Commission of the State of New York, 1906, p. 61.*

that of probation itself, come from across the Atlantic. It is indeed surprising, in view of the very great success of the Industrial and Reformatory School system in dealing, during the last fifty years, with most unpromising material, that there should often be such hesitation about sending boys to these institutions. As already stated, the probation-officer could never do what the Schools can do, and can in no sense replace them. In many cases a probation-officer might have a lad under observation for a year, and at the end of that time he might be as unsatisfactory as ever, and might have to be committed to a School when a year older and so much the more difficult to train. Suppose, for instance, a child is brought before the Court on a charge of petty theft. If the home is bad and the parents indifferent as a result of drunken or other evil habits, to dismiss the case by placing the child for a period under the charge of a probation-officer could not be of much benefit. A change of environment, a regular systematised training is what is required, for it must be borne in mind that in most of these cases the child is not yet a worker, and is about the home all day when not at school. The

Industrial School is unquestionably the best place for such a boy.

On the other hand, trifling offences due to high spirits or pure mischief, and charges of theft, etc., against children whose home is good—cases in which sudden impulse or bad companionship have led to the wrong act—can well be dealt with by placing the youngsters on probation for a time. That there are numbers of cases in which it is efficacious is illustrated by the experience, *e.g.*, of the Chicago Court, to which only 18 per cent of the boys placed on probation in 1899 were returned.¹

Children who have lost their parents, or been deserted by them, are readily admitted to voluntary homes of various kinds, and rarely come within the pale of the Vagrancy Laws; when they do, they can always be sent to an institution. As far as regards vagrancy, the difficulty arises with youths over sixteen.

From what we have said it will be seen that the creation of a body of probation-officers to deal with *children* is eminently desirable, but

¹ *Report of the Proceedings of the Third International Congress for the Welfare and Protection of Children*, 1902. "The American System of Probation-Officers," by Miss Ada Eliot, Probation-Officer of the City of New York.

not a *very* crying necessity. When the home is bad the child's right place is the Industrial School; when it is good, parental control can in many cases easily be regained over a child sobered by its interview with the magistrates, and the probation-officer can do little more than strengthen the parents' hands. With children the chief value of the system might be to make sure that the evidence laid before the Court had been sufficient, and its decision a right one. The probation-officer would keep a sharp look-out for any evil tendencies in his protégé or any dangerous conditions existing in his home, and on discovering such and failing to effect improvement, would not hesitate to bring him before the Court again that he might be committed to a School.

It is with older lads that the probation-officer could do his best work—for them that the realisation of some such scheme is a crying necessity. The youth discharged from prison, he who has finished his term of confinement in an Industrial School or Reformatory, he who has been dismissed on a first charge of certain kinds of theft, he whom destitution or misfortune has brought under the notice of the authorities—all

these appeal, and appeal for the most part in vain, for help, for a decent home, for adequately remunerated employment, for sound advice, for strong support and friendly sympathy, for supervision and restraint, for all that they would call "a chance." All this the probation-officer should and could provide, but, let us repeat, the one essential thing he *must* provide, if he is to be any use at all, is *work*.

It may be of interest here if we describe the methods of some of the Children's Courts in America, the birthplace of the system.¹

The first was established in Chicago in 1899, and is representative of the main features common to those founded on its model. A special judge is appointed for the work, and sessions are held in a separate court-room. The children are classified as (a) Neglected or Dependent, (b) Truant, (c) Delinquent, and the cases of each class are dealt with on different days. A "delinquent" in contrast to a "dependent" child remains under surveillance of the Court as its ward, and may from time to time be sum-

¹ An account of the proceedings of an English Children's Court—that at Birmingham—may be found in *Seeking and Saving*, October 1906.

noned before it. And since it belongs henceforth to the State, parents are not required to contribute to its maintenance in an institution, the moral effect on *them* of this arrangement being disregarded. A child, with its relations or guardians, must appear before the Court within twenty-four hours of a summons, and is dealt with summarily. The probation-officers appointed by the Court are at once informed of every case that comes up, and have to immediately investigate it, and represent the child's interests at its trial. The chief probation-officer, who acts as prosecuting attorney, receives a salary from the municipality, as do also sixteen policemen whom the Mayor selects and appoints as police probation-officers. In some of the other States this employment of policemen is strongly deprecated. They wear no uniform. Their duty is to attend at the various police-stations, and take charge of the juveniles arrested, and bring them before the Court. A child under twelve, however, cannot be taken to a police-station; or detained in a building where there are adult criminals. Then there are twelve district probation-officers, who are paid by the Juvenile Court Committee, an offshoot of the Women's

Club. Others are appointed by, and receive salaries from, various denominational societies, which they represent in the Court; and some act as volunteers without pay, very often taking an interest in some one child, and getting a commission from the judge to look after it.

These probation-officers make every possible inquiry into the circumstances and advise the judge on the course to be followed, take charge of and observe the child if a final decision cannot at once be reached, and undertake the supervision of children left in their own families or boarded out in others. If the child is sent direct to an institution, the probation-officer's functions with regard to it are at an end, fresh arrangements for its supervision being, of course, made on its release. The Industrial Schools or Reformatories also have representatives present at the sittings of the Children's Court, and every institution which receives delinquent children must keep a probation agent, to supervise those who have left it, assist them, and report to the Court on their progress. The institutions themselves are supervised and inspected by the Board of State Commissioners of Public Charities and by the County Board of Visitors. When a child who is

placed on probation is without a proper home, one of the probation-officers representing a religious body undertakes the charge of it. There is a detention home for boys while their cases are being examined, but it does not seem deserving of much praise.

The trials are very informal and no time is wasted, on an average eight to ten cases being dealt with in an hour. The gathering of information by the probation-officers before the actual inquiry in Court of course renders prolonged investigation unnecessary, but the proceedings are said often to appear unduly hurried. Theft, needless to say, is the most common offence, followed by railway misdemeanours and vagrancy. Very serious cases, murder *e.g.*, are referred to a Grand Jury; but in 1903 recourse was only had to this measure in 21 out of 1586 cases. Rather less than half of the boys convicted were dismissed on probation, and the rest were sent to the Reformatory.¹

The Children's Court in New York is superior to that in Chicago, in that it is held in a separate building; but, for reasons referred to above, inferior, in that six judges visit it in rotation.

¹ Baernreither, chap. vii.

In the borough of Brooklyn, however, the judges have arranged that one of their number should actually preside for nine months each year. It is called the "Court of Special Sessions, Children's Part," and all cases up to the age of sixteen must be brought before it. The Society for the Prevention of Cruelty to Children (supported by voluntary contributions, but "not a charitable institution") plays a great part in the proceedings. By the penal code its officers are invested with an official position as "peace officers," its president is the Chief Children's Probation-Officer of the city, and its attorney conducts the prosecutions. When a child is discovered in a vicious environment the Society initiates proceedings, and later, in its probation-officer capacity, when advisable in the child's interest, resists parental attempts to recover it from an institution. It possesses a fine remand-home, which can shelter a hundred children at a time during the few days it may take to inquire into their cases. In 1903, 7294 children passed through this home. A child committed to an institution is not conveyed thither by a policeman, but by one of this Society's officers. But so far as probation is concerned, the work of the Society, except

in Brooklyn, is very inadequate ; it is accused of limiting its efforts to the securing of information, and of failing to establish friendly personal relations between its officers and the children. The Society exists primarily for other purposes, and its comparative failure in this emphasises the mistake of allowing the work to get into the hands of private organisations, instead of placing it under a State department with duly co-ordinated methods and central oversight and control. In New York the proceedings of the Children's Courts are rendered more formal than in other States, counsel being assigned to the defendant, who is also entitled to demand a jury. The judge is influenced in his choice between probation and training in a School rather by the character of the child's home than by the seriousness of its offence, so that not only petty misdemeanours, such as truancy and illegal street-trading, but even felonies, are dealt with by probation.

In Massachusetts, as in Chicago, the Children's Courts do not sit in separate buildings, but hold special sessions from which all persons considered undesirable are excluded, so that the proceedings are practically private. Great care also is taken

that no account of juvenile crimes should be published in the newspapers. Boston is probably alone in one of its methods of inspiring respect both in children and adults who are brought before the Courts—a great point is made of personal cleanliness and neatness; and the necessary conveniences for, in so far as possible, securing these are provided, and their use enforced before the persons under arrest enter the presence of the judge.¹ The practice is worthy of imitation by every Children's Court at least, as it is calculated to strengthen the impression of its dignity made upon a youthful mind. When young probationers are returned to their parents' care, the parents are warned that they are "held responsible for their child's behaviour, and will become liable to punishment if it is again brought before the magistrate."²

Though apparently Children's Courts have not yet been established in France, the separation of juvenile from adult prisoners is aimed at more and more in that country also. At the Paris police-stations separate waiting-rooms are provided for boys and girls, and an "Asyle d'Obser

¹ Baernreither, chap. vi. p. 143.

² Florence Davenport Hill. Letter to *The Times*, June 20, 1906.

vation," or reman¹-i-home, has been founded for young offenders who would otherwise have been sent to prison pending inquiry into their cases. Here they are made to work, and kept for a time under strict observation, their conduct being reported to the judge as a guide to his final decision. The transport of juveniles in *paniers à salade* ("Black Marias") has also been forbidden,¹ and they must be escorted by *agents en bourgeois*, not by *gardes républicaines* in uniform.² In Germany the Conference on Guardianship-Education held at Breslau in June 1906 passed a strong resolution in favour of the establishment of Children's Courts, and for entrusting the procedure to specially trained magistrates.³ Courts of this kind have existed for many years in South Australia.

Just as we have adopted the recommendation of the Commissioners that Short Detention Schools should be founded on the model of the

¹ A child's journey in one of these vehicles is described in François Coppée's story *Le Coupable*. The account of a French *Colonie Pénitentiaire* (Industrial School) may happily be regarded as obsolete; but the book retains its interest by the skill with which the psychological process of the development of the illegitimate child and ex-Industrial School boy into the thief and murderer is drawn.

² Gaston Drucker, *La Protection des Enfants Maltraités et Moralement Abandonnés*. Paris, 1894.

³ *Schlesische Zeitung*, June 14, 1906.

Truant Schools for younger offenders, so we have dealt somewhat fully with Children's Courts partly in order to suggest that their methods should be applied to youths more advanced in years. If the age of full criminal responsibility could be raised in Great Britain to that obtaining in certain other countries, namely eighteen, the sphere of benefit conferred by the establishment of Courts of this kind would be enormously widened. Still better would it be could an arrangement be made that on certain allotted days all first offenders up to twenty-one should be dealt with privately by magistrates specially interested in juvenile adults. Even the terrible "hooligan" is often but a child at heart, and means very little by his vile language and rough actions, and a stern but tactful and kindly-disposed magistrate might make him realise in a private interview that his behaviour is simply silly and despicable. The lads of all the types we have described have, in fact, one feature in common, a feature so obvious that it would seem superfluous to draw attention to it were it not that it is so often forgotten. All of them are *boys*, not *men*; and as boys the right place for most of them is

neither the police-court nor the prison. They would most rationally and with the best results be brought before a Court managed on the lines of the Children's Courts here described. Probation-officers (or other officials specially appointed for this branch of the work) would make full investigation of each case before trial, and the lads, according as it appeared that misfortune or culpability had led to their arrest, would be placed on probation or committed to the Short Detention School, or to a prison for the Borstal treatment. The shame—a shame the deeper as it is less deserved—and all the hardening effect of a public appearance before the Bench would be abolished; the fear of it would remain undiminished to deter the first offender from a repetition of his fault. Our manufacture of criminals, so flourishing as yet, would languish, since only the already criminally disposed need, under such a system, ever suffer the contamination of either police-court or prison. *For in no case would a destitute and homeless youth be dismissed without something being done for him and, if possible, a home and work secured.*

CHAPTER XIII

FOREIGN AND COLONIAL REFORMATIVE METHODS

THE details already given must have made it sufficiently clear that, so far as concerns the subject of this volume, England is no longer in the forefront, whether regarded from the standpoint of economy, common-sense, humanity, or justice. It will have been seen that there are other countries where young lads are not submitted to the public degradation of the police-court, are not treated as men and consigned to the ordinary prison for trifling offences, are not, after a few days of useless and prejudicial detention, turned loose with no alternative save to seek a livelihood in precisely the same way as before their arrest. And the reader will have observed that in these countries an attempt, and more than an attempt, is made to discover the underlying causes of their offences, to remove

those causes, and to provide the unhappy youths with a sound equipment for life in the same way that England so successfully provides it for children under sixteen.

If we try to summarise the chief points of difference between other methods and our own, it is impossible to keep strictly within the narrower limits of age which our system has dictated. We propose, therefore, in this chapter to consider the treatment in certain other countries of all juvenile offenders up to the age of twenty-one.

The governments which have devoted the most scientific study and extensive legislation to the subject are agreed on certain general principles. These may be enumerated as—

(1) If parents have directly or indirectly shown their incompetence to bring up their children properly, they forfeit *all* rights over them, the only connecting link being the obligation to contribute to their maintenance. The State, or persons appointed by the State, assumes absolute control of such children until their majority.

(2) Full criminal responsibility is not incurred till the eighteenth year; until that age a boy or

girl must not be regarded or treated as an adult.

(3) The boy is placed in an institution for an *indefinite* period, and taught to work at some employment by which he may earn a living as soon as he is considered ripe for discharge.

(4) The time following release being recognised as most critical, a system of supervision or probation is enforced for a period, or until the attainment of majority. If the offence has not been serious, and home circumstances are such as render a Reformatory training unnecessary, probation is exercised without previous confinement.

(5) Life in an institution is regarded rather as a necessary evil. The general principle followed is to give the inmate as sound and thorough a training as a limited time will allow; but to restore him to free life in a home chosen for him, or in his own, as soon as his conduct leads to the presumption that he may be trusted to keep straight under ordinary conditions. So far as the younger boys are concerned, it is a very questionable advantage thus to break the continuity of their education; when destined for farm labour, as the majority in certain countries

are,¹ the objection, however, largely disappears, and on the score of economy, if not always, as claimed for it, on that of the child's welfare, the system may be defended.

(6) The shortest expedient residence in a school being a desideratum, every effort is made to raise the industrial training received there to the highest level possible, in order that there may be no difficulty in obtaining good wages for a youth on his release, and that, handicapped as he is by bad early upbringing and popular prejudice, he may compete on at least equal terms with those educated in freedom. Not only are manual industries taught, but foreign governments in many instances do not shrink from the introduction of the best modern machinery.

(7) Within the schools the individual character of the inmates is carefully studied (at first during a period of isolation which at all events possesses hygienic advantages), and classification as far as possible observed by dividing them into small groups or housing them on the cottage

¹ In some of the Western States of America the demand for such children to adopt is greater than the supply, although nothing is paid to the foster-parents.—Baernreither.

system. Classification is often carried further by the provision of different types of institutions.

(8) A minor difference, perhaps worth noticing because certain philanthropists give it undue importance, is the complete absence or very sparing use of corporal punishment. This lies in the character and customs of the people, for many foreigners have as unreasoning a dislike for even parental chastisement as English people have for frogs or black bread. By their repugnance they are led to have recourse to absurd and pernicious substitutes, such as suspension of attendance at the day-school and solitary confinement in a cell.¹

In the United States of America, the country in which modern theories have longest been practised and most thoroughly and zealously studied and discussed, the most salient feature is the wide use of the indeterminate sentence, the reformatory, and release on parole or probation, as three closely connected stages in one consistent system. Noticeable, too, are the extent to which, on behalf of juveniles, private

¹ In France, *e.g.*, troublesome children may be sent to prison for a few days by their parents, a commitment of this nature not being counted as a conviction.

societies supplement the work of the State and are supported by the State, and the general interest which the whole subject arouses, as is evidenced by the numerous Boards of "Charities and Correction," etc., Children's Aid Societies, conferences, elaborate reports, and the like.

In many of the States¹ the Reformatory method is applied not only to juveniles and juvenile-adults, but to men up to the age of twenty-five, thirty, or even thirty-five, nominally only to first offenders, but in practice to all persons between sixteen and thirty who appear likely to profit by it. It is based on the principles that "the wrongdoer must be considered an object not for society's vengeance but for its ministrations,"² and that "no man, whatever his offence, ought ever to be discharged from restraint except upon reasonable evidence that he is morally, intellectually, and physically capable of earning a livelihood."³ The idea of passing "reformative" instead of "time" sentences originated as long ago as 1867, at the suggestion of the secretary of

¹ New York, Massachusetts, Pennsylvania, Minnesota, Ohio, Illinois, Indiana, New Jersey, Wisconsin, Colorado.

² *Elmira Year-Book*, 1892.

³ Motto of the Elmira weekly newspaper, *The Summary*.

the New York Prison Association,¹ and was followed, 1870-77, by the founding of the Reformatory at Elmira, which formed the model for those established in other States.

When a youth is committed to the Reformatory, the particular crime which has brought him there is but little considered, being regarded as a mere symptom, but all possible inquiry is made into his "ancestry, environment, associations, education, habits of life, attainments, and physical and mental condition" before assigning him his place in the trades schools and school of letters. He is presented on his entrance with a complete outfit, but is then placed on his own resources, charged for his room and board, and obliged to replace his clothing when necessary. In the lowest grade he earns forty-five cents a day (eight hours), but can work overtime and earn more. He is fined for bad work, for failure in the monthly examinations, or for breaches of the regulations. There is thus every incentive to work hard, not only to obtain discharge, which work obviously directed to that end alone will not effect, but to save money to

¹ *Reports prepared for the International Prison Commission.* Washington, 1899. "The Indeterminate Sentence," Warren Spalding.

start upon, when release comes. Amongst the thirty trades taught are electricity, iron-forging, steam-fitting, stone-masonry, music, stenography, typewriting, and photography. Military drill and physical exercises are assiduously practised. An hour and a quarter in the day-time is spent in the schoolroom four days a week, and lectures are given on Sunday afternoons. Some of the newcomers have to be placed in a kindergarten class, but wonderful progress is made, and members of the higher classes are instructed in ethics, philosophy, logic, history, literature, mathematics, etc., encouraged to hold debates, to contribute to the weekly newspaper, and occasionally lecture to their fellow-prisoners. Every inmate is allowed one book a week, which may be fiction, from the library; men in certain divisions an extra book, not fiction.

The Americans are often accused of pampering the inmates of their Reformatories and Prisons, both physically and mentally, and certainly when we read, for example, the diet sheets¹ of some of these institutions there seems

¹ Sunday dietary at the Reformatory Prison of Huntingdon, Pennsylvania: Breakfast—beef-pudding, bread, syrup, and coffee;

some truth in the charge. We must, however, consider that every system forms part of the organic life of the country in which it obtains. The standard of living and of working-class intellectual attainment appears to be far higher in America than in Europe, and it is held sound policy to accustom prisoners to comforts which by steady work they ought always to find within their reach.

The system of release on parole as soon as there is reasonable hope of the prisoner being fit for a life of freedom, and the supervision exercised by probation-officers, we have already described in Chapter XI. There is seldom any difficulty about getting work for a man or boy discharged from a Reformatory, for the practice of only granting release when the prisoner is judged by experts to be really altered in character removes the stigma of crime and carries the assurance of honesty, whilst the excellent training received recommends him as a worker.

In the State of New York 40 per cent of all persons committed to the State prisons are sent

dinner—pork and baked beans, pickles, bread, syrup, and coffee; supper—gingerbread, bread, syrup, cocoa, and sugar. The week-day menus are hardly inferior.—Baernreither, p. 284.

to Elmira, which in 1905 had an average population of 1295. Of the 830 released in that year on parole, 85 per cent are claimed as probably reformed, and only $2\frac{1}{2}$ per cent reported as returned to crime. "It is clearly evident, from a thorough study of criminal statistics of States where the Reformatory methods have been adopted, that the average length of sentences has increased and not diminished, and that crime has not increased in a ratio to the population."¹

To turn to the treatment of juveniles—*i.e.* children who come before the notice of the Courts before the age of sixteen and may be detained up to, twenty-one. The preceding chapter contains an account of the Children's Courts and Probation-Officers, and it only remains to refer to the institutions to which they are committed. According to a calculation made in 1900,² from 80 to 85,000 children were in that year living in private institutions in the United States, some 50,000 were boarded out in families, and about 15,000 were in the State

¹ *Elmira Report*, 1906. See Appendix, p. 322.

² Homer Folks, *The Care of Destitute, Neglected, and Delinquent Children*. New York, 1902.

Reformatories. In the general character of the training given they seem to bear much resemblance to our English schools,¹ but with the important difference of principle that the aim is always to discharge a boy as soon as possible, restoring him to family life under supervision, which continues, if considered expedient, until his majority. The determination of the date of release is generally arrived at by a system of marks. In one school,² for example, newcomers are placed in the second class, and by bad marks may sink to the third, or by a sufficient number of good ones rise to the first. Five thousand good marks are necessary to secure discharge, and these cannot be gained by less than one and a half years of exemplary conduct. The newer schools are arranged on the cottage or family plan. The New York Juvenile Asylum places twenty boys in each cottage; at the Glenmills House of Refuge, Pennsylvania (800 boys), each division of fifty forms a "family" under a "father" and "mother," and has its own dining-room, with tables for six, and sitting-room,

¹ An account of the original methods of the "George Junior Republic" may be found in *Munsey's Magazine* for February 1901.

² Baernreither, chap. iv.

furnished with carpet, piano, flower-stands, pictures, etc. The boys are trained as painters, masons, printers, tailors, shoemakers, bakers, electricians, farmers, half of them alternately spending morning or afternoon at work and in school. The evenings are occupied with reading, music, games, gymnastics; once a week a concert or illustrated lecture (among the subjects which have been chosen are Assyrian excavations, insect life, X-rays, the Philippines, African birds and their migrations) is provided; and a daily newspaper is published. The popularity of the military drill is increased by periodical manoeuvres, at which officers of the United States army act as umpires. The average stay is two years. As in the case of the Reformatories for older offenders, the treatment, to the superficial observer at least, seems unduly luxurious. It is, however, deliberately employed in the belief that on his release the boy will try to live up to the standard to which he has become habituated; and will even react on his family if he returns to it.¹

Of European countries, Hungary² deserves the first place for the insight and imaginative

¹ Baerareither, chap. iv.

² See Appendix, p. 287.

sympathy, the elaborate care and thoroughness with which its Reformatory system has been thought out, for the soundness of the principles on which it rests, and the technical perfection of the training provided. We have given so full an account of this system in the Appendix, that to it we would refer all who are interested, or, better still, to the admirable report, with its illustrations, statistics, and syllabuses of industrial training, from which it is drawn. Here we need only remark that its keystone is the provision of the most technically perfect industrial training attainable, while along with this every endeavour is made to minimise the disadvantages of life in an institution by making it as individualistic, as home-like, happy and healthy as thought and care can render it. The average stay in the various "houses of correction" varies from four and three-quarter to two and a quarter years.

In France¹ the present is a period of transition. In general, the treatment of juvenile offenders does not as yet compare very favourably with our own, but a committee is considering the whole problem, and one result said to

¹ See Appendix, p. 229.

be certain is the raising from sixteen to eighteen of the age up to which a person may have acted "without discernment," meaning that such a person will be eligible for committal to a Reformatory instead of to a prison. As it is, youths up to eighteen convicted for vagrancy and begging are corrected by detention in a school. In connection with a movement for thoroughly overhauling and improving the Reformatories, a number of private schools have been closed, and there are now ten belonging to the State, under the control of the Minister of the Interior, and ten managed by departmental authorities or voluntary societies. The worst cases are sent to special prisons, such as that at Eysses, or La Roquette in Paris, where some 400 unhappy children are confined in cells under strict discipline, and employed on uninstrucive labour. In contrast to this is such an excellent school as Montesson, which receives boys under fourteen, and discharges them at sixteen. Each of its nine sections occupies a separate building, and contains forty boys classified according to antecedents, or, in the case of the older lads, according to their occupation in the school. On arrival a boy is placed in a special section for a

few weeks' observation. Up to the age of fourteen he receives full-time elementary instruction, he then enters a workshop or joins a class for garden or field labour. The industrial training in the French schools is already on a very high level, especially in metal-working, carpentry, and cabinet-making, nevertheless, the authorities are considering how they can improve it, and striving to obtain a better class of instructors. We have already referred to the completeness of the forfeiture of parental rights when unfitness to exercise such rights has been demonstrated.

In Belgium all the *Ecoles de Bienfaisance*, as the Industrial Schools are called, belong to the State, and are under the control of the Minister of Justice. The officials, numbering at least one to every ten boys, are all civil servants; several of the directors are retired army officers, who prove exceptionally zealous, and the institutions have their own chaplains and doctors. Since 1891, youths between sixteen and eighteen may be committed to them for minor offences, vagabondage, and begging. The industrial training is very advanced, including forging and metal-work, joinery, printing, railway fittings, book-binding, and bicycle-making; the construction

of motor cars and electrical plant is contemplated in one school. The extensive business connection which has been developed forms, however, a danger, as useful boys are often kept at school up to twenty-one, when they cease to be at the "disposition of the State." It would be far better that these should adapt themselves earlier to a life of freedom, especially as after twenty-one they lose the advantage of supervision during the critical period which follows release. The boys receive marks for good conduct, and may earn a monthly half-holiday, with the peculiar addition of some beer and one or two cigars.

The clerical work in connection with these schools is very heavy, for daily and monthly returns must be submitted to the Inspector-General, and by an excellent system a *dossier* must be kept to record the conduct and past and subsequent history of every pupil who passes through them.

The chief flaw in the Belgian system is that children guilty of serious offences are incarcerated, as in France, in special prisons or departments of prisons, whilst even the schools tend to be too prison-like.

At Ruyssede, a school for 570 boys from five

to eighteen years of age, the juniors receive an ordinary elementary education, the seniors agricultural or industrial training, with two or three hours' daily schooling. At St. Hubert (capacity 400), only boys of sixteen to eighteen are henceforth to be admitted. Ypres School contains nearly 300 boys between fourteen and twenty, and a section for boys guilty of misconduct at other institutions. These are kept at menial work or confined in cells, and are never allowed to return to their previous schools. Similarly, boys condemned to the special quarter of Ghent prison have no hope beyond a training in the workshops if their behaviour is considered sufficiently good. Otherwise they remain in their cells. Committees of patronage are attached to each school, and place out and afterwards supervise the ex-pupils; but with regard to this, as to many other details, theory seems as yet to be better than practice. Members of committees of patronage subsidised by the State also visit and look after in their families children who are in "moral danger" but not actually guilty of wrong-doing.¹

¹ *Report of the Proceedings of the Third International Congress,*
p. 208.

The German legislation of 1900¹ is essentially prophylactic. Any person or body of persons cognisant of a child under eighteen growing up amid such surroundings that he is likely to become a criminal is enjoined to report him to the authorities, who may then remove him entirely from the care of his parents to that of the State, and have him brought up until his twenty-first year in an institution, or in a suitable family under the supervision of a probation-officer. The principle has been laid down that exact knowledge of the personality and development of each child is necessary in order to avoid the danger of upbringing (*erziehen*) becoming simply updragging (*aufziehen*). A detailed report, showing the causes which have rendered guardianship-education expedient, must be prepared, and a record kept of the effects of such education when applied.² Upbringing in a family is to be preferred to that in a school, and the pupils, as soon as they have acquired habits of decency and order in an institution, are, when possible, to be entrusted to private persons. In practice, however, this is found very difficult in the case of

¹ See Appendix, p. 250.

² *Statistik über die Fürsorgeerziehung für das Etatsjahr, 1901.*

the older children; and of the total number under the operation of the law in 1904, 63·8 per cent were in institutions. Juveniles between twelve and eighteen are liable to a mitigated form of imprisonment (in no case penal servitude) in special prisons or sections of prisons, if at the time of committing an offence they possessed the "intelligence necessary to the knowledge of its criminality"; and a serious defect in the law of 1900 is its failure to abrogate this provision, with the result that large numbers of reformatory children have spent a preliminary period in prison. But, as already mentioned, in Berlin at least, the experiment is being made of sending even lads over eighteen to a reformatory instead of a prison, and further legislation is impending.

The German institutions all belong to local authorities or benevolent societies, and the State has little to do with them beyond contributing two-thirds of the cost of maintenance. Here too a boy is isolated for three or four weeks' observation by the director, doctor, schoolmaster, and chaplain before he is allotted his place in a school. Special attention is devoted to agriculture, but the industrial training is also good, and theoretical instruction of both kinds

excellent. Some of the institutions for the more serious cases are too like prisons in character,¹ and to this and to the resentment felt by lads who have been imprisoned at the injustice of what they consider a double punishment, is probably chiefly due the enormous number of escapes or attempted escapes from guardianship-education. Many schools are, however, altogether admirable, and of these that at Zehlendorf may be taken as representative. It belongs to a Society for the Education of Neglected Children, and its director is a Protestant pastor. Only children under fourteen are received, and it contains 200 boys and 100 girls, of whom about a third are sent by the courts. An ordinary education is given until the children are fourteen; they are then instructed in gardening and various trades, their studies being illustrated by models and made extraordinarily interesting. The school at Lichtenberg already referred to is practically a senior truant school rather than a Reformatory, for the number of lads between fourteen and twenty-one requiring admission is so great that they can seldom be kept longer than six months.

¹ *Konferenz über die Wirksamkeit des preussischen Fürsorgeerziehungsgesetzes*, Breslau, 1906. (*Berliner Tageblatt*, 16 Juni.)

The building is designed for 200 inmates, and of these all but a very few are there for theft. Boys under seventeen spend twenty-three hours a week in the schoolroom ; over seventeen, eleven hours. A certain number are sent into the country to learn farming, and only spend the week-ends in the institution. On their discharge situations are found for them, but if they do not get on well they are brought back to the school and given a fresh start. The surveillance of ex-inmates of German Reformatories is as a rule good, and may continue after they have passed the age of twenty-one.

In Russia,¹ by the law of 1897, penal responsibility begins at ten, but penal majority is not reached till twenty-one, all punishment under that age being mitigated. Boys between fourteen and seventeen are by preference committed to a correctional institution or "colony," or if they acted "with discernment" to the special section of a prison. If under fourteen, and acting "without discernment," they may be placed in a monastery or handed over to the care of parents, private persons, or societies.

The Reformatories appear to be excellent so

¹ *Revue Pénitentiaire*, February 1902.

far as they go, but being mainly dependent on philanthropic effort they are lamentably scarce. In 1899 there were only thirty-seven, accommodating but 16 to 18 per cent of the children sentenced to them, the remainder being sent to prison. Nearly all are subsidised by the Government, the Zemstvos, or municipalities, and they are exempted from taxes, but financial need prevents them from developing as their supporters wish. Detention is for a minimum of one year, with obligatory discharge at eighteen. Corporal punishment and solitary confinement are very rare, and three institutions which receive boys of the worst type claim to dispense successfully with every form of punishment. In winter museums are visited, illustrated lectures given, and amateur theatricals organised. One school gives the boys leave to go home during the agricultural season, so that they can practise what they have learnt. Thirty-nine per cent of the children are between twelve and fifteen years of age, 34 per cent between sixteen and eighteen. There is no system of assistance or probation after release, nevertheless excellent results are obtained. In 1898 recidivism had sunk to 5 per cent, in 1899 to 4.41 per cent, and from one

"colony" only one boy was re-convicted out of sixty-three discharged. Of the 1429 lads in these schools, 382 were learning shoemaking, 352 carpentry, 254 agriculture, and the rest locksmith's or wheelwright's work, bookbinding, tailoring, etc. At one institution the hours were eight of manual labour and four in class daily.

In 1899 over 5000 youthful offenders were imprisoned, 3700 in gaols with special sections, the remainder in common prisons. Of all these only 1400 were taught a trade; the rest were left unoccupied.

The chief features of the laws which came into force in Holland¹ at the close of last year are the complete forfeiture of their rights by unworthy parents, and the abolition of imprisonment for all children under eighteen, unless in the case of those over sixteen whom the judge may consider fully matured. Only children over fourteen may be committed to a Reformatory for a first offence. The weak point of the system is the shortness of the period of detention, which is limited to a general minimum of one month and maximum of six months or a year, according as the culprit is over or under fourteen. Juveniles guilty of

¹ See Appendix, p. 279.

repeated offences of begging, vagrancy, violence, etc., may, notwithstanding, be placed "at the disposition of the Government," and kept in a corrective institution until they are twenty-one, or released conditionally and placed under the supervision of a probation-officer. Some of the institutions belong to the Government, others to private societies; they are small, containing at most fifty children. By good conduct a boy may rise to a "class of special favours"; by bad, find himself enrolled in the "class of discipline." The avowed aim of these establishments is to be distinctly punitive without undue repression; walks, gymnastics, and outdoor games are indulged in. Conditional sentences have been introduced for children apparently requiring less severe treatment than actual committal to a school. All juvenile cases are dealt with in private.

In Switzerland full criminal responsibility begins at sixteen, but, as in Germany, mere vagabonds are committed to agricultural colonies, not prisons, and for vagrancy and minor offences youths of even nineteen are sent to Reformatories. Boys are sentenced to them for a definite term, often two years, but if they behave well may be placed out before the expiration of the

time, under liability to be returned in case of backsliding. Members of societies of patronage perform the duties of the probation-officer, often for several years after their discharge. In Lausanne, *e.g.*, one gentleman undertakes the whole of this work. Each canton has its own institution, or joins another in supporting one, so they are necessarily small. Agriculture and industries are taught in the morning; the afternoon is spent in school. About half of the boys are said to turn out well eventually.

Colonial conditions are so different that it is perhaps of little practical use to compare the systems in force in our dependencies with our own. Taking Victoria as representative of Australia, we find that the Department for Neglected Children and Reformatory Schools¹ places almost entire reliance on the principle of boarding-out. There are six Reformatories for boys, the largest containing an average number of forty-three, the smallest only four. With one exception, they possess large tracts of land and give a general farm training. Magistrates may commit boys to them up to the age of seventeen, or they may be transferred from gaols up to eighteen.

¹ *Report of the Lushington Committee, 1896.* See Appendix, p. 319.

The Inspector-General of Penal Establishments was so satisfied with the results achieved in 1904 that he advised the extension of the age of committal to twenty-one years. Children's courts and a system of probation-officers have long existed in some of our colonies. In New South Wales¹ incorrigible lads are "placed for periods varying from six to twelve months in Probationary Farm Homes under the care of experienced farmers, who are paid 10s. a week for each boy, and are required to subject them to corrective treatment and to instruct them in the practical work of the farm. . . . The lads are given to understand that their return to ordinary service and the resulting receipt of wages for their labour is concurrent with amendment in their behaviour." In New Zealand, by the Act of 1895, any person under eighteen sentenced to imprisonment may be sent to an Industrial School after or in lieu of imprisonment; and in South Australia destitute, neglected, uncontrollable, or criminal children up to eighteen come under the care of the State Children's Council.²

¹ *N.S. Wales State Children Relief Board Report, 1902.*

² *Journal of the Royal Statistical Society, June 1900.*

In Canada¹ (Ontario) juvenile offenders under sixteen are referred to the State Department for Neglected and Dependent Children, acting through thirty Children's Aid Societies, under a superintendent receiving a Government salary. The Societies, when possible, place the children in families, and indeed have not enough children to meet the demand. They also assist boys of sixteen to eighteen in finding homes and work. There are four Industrial Schools, built on the cottage system, in Ontario: those for boys containing respectively 200 and 90. The Government pays \$1.75 and the municipalities \$1.25 a week for each pupil. Children from ten to sixteen are committed to these institutions without definite sentences, "the school exercising powers of guardianship until twenty-one, but parolling the boy or girl within three years." Printing, shoemaking, tailoring, gardening, and farm-work are taught. Of eighty boys parolled from the Reformatory nearly two years ago, only three have since been sent to prison.

¹ *Report, Neglected and Dependent Children of Ontario*, 1905. J. J. Kelso, "Laws affecting Children." Toronto, 1904. See Appendix, p. 317.

CHAPTER XIV

METHODS OF TREATMENT OF JUVENILE OFFENDERS IN ENGLAND, 1756-1906

THAT present conditions may be seen in their relation to the past as belonging to a movement still in progress, we will conclude by sketching the history of the treatment of youthful offenders in England.

The first organised attempt to deal with troublesome boys began in 1756 with the founding of the Marine Society¹ for the purpose of clothing "landmen and boys for the use of the King's ships, that the merchants might have so many the more to navigate their own," and as "an expedient to provide for poor boys who might become a nuisance." "The filthiness of landmen's garments has in past times created

¹ *The Origin, Progress, and Present State of the Marine Society*, 1770. *General State of the Marine Society*, 1845.

a morbid air in ships, and there can be no doubt but that the same is applicable to the filth and rags of poor boys." The Society was generously supported by the King, City Companies, and private subscribers, and between 1756 and 1762 5451 young men and 4787 boys were clothed and sent to sea at a cost of over £22,000. Among the assisted were "boys whose parts have been wrong cast, being so contrary to their genius that they are more inclined to hazard their necks than to live a sedentary life. Of this class there is no inconsiderable number." They were washed on the Society's premises, cured of diseases, and with their own consent inoculated for smallpox, clothed, and sent on board the ships specially recommended to the care of commanders. The officers were exhorted to take an interest in their material and spiritual welfare, and to "act the part of a father" to them, and printed instructions for their behaviour, including prayers for daily use, were supplied to the boys themselves. In 1786 a training-ship was started, of which the *Warspite* is the modern representative. Up to 1844, 46,408 boys between the ages of thirteen and seventeen were fitted out and sent to sea.

In 1788 the Philanthropic Society¹ was founded "for the protection of poor children and the offspring of convicted felons, and the reformation of children who have themselves been engaged in criminal practices." It began by boarding out in three or four cottages at Hackney parties of twelve children, that they might "learn the happiness and benefit of home," but in 1792 moved its quarters to Southwark and dropped the "family" system. In 1806 it was incorporated by Act of Parliament; in 1849 the present excellent Farm School was established at Redhill.

In spite of the alarming increase in juvenile crime and these examples of private effort, it was long before the Government made any attempt to deal with the problem. Pitt brought in a Bill in 1793 to provide a kind of industrial school, but it did not pass.² The treatment of youthful offenders a century ago in its cruelty and folly almost surpasses belief; it is perhaps not improbable that our present methods may seem nearly as incredible a hundred years hence.

¹ *The Philanthropic Society: Centenary Report*, 1888.

² *The Nineteenth Century*, January 1901. "Hooliganism," John Trevarthen. •

The children, as was natural, richly revenged themselves on society for its treatment of them. In London alone there were 200 juvenile "flash-houses" frequented by 6000 boys and girls. Every form of theft, including highway-robbery (for which boys of twelve and fourteen were hanged when caught), was practised by them, and the thirteen-year-old captain of one gang, a young desperado armed with pistols, sometimes gained £100 in a week.¹ Boys of six or seven were committed to prison, not only for proved offences, but, often innocent, to await trial, and after associating with scoundrels of every age were discharged, almost inevitably to return. Parliamentary inquiries, held in 1811 and 1819, condemned the imprisonment of young children, but to no purpose. In 1818 eleven small children were counted on one day in the overcrowded and filthy gaol at Bristol; in 1833 a boy of nine was sentenced to death, though not executed, for stealing twopennyworth of paint through a shop-window. A boy of sixteen was imprisoned for seventy-one days and then sent to hard labour for two years for stealing some suet; two boys of fifteen, after fifty-one days in gaol

¹ Major Arthur Griffiths, *The Chronicles of Newgate*, 1884.

before trial, were transported for seven years for stealing a pair of boots.¹ In 1816 a Society had been founded to investigate the causes of the alarming increase of juvenile delinquency; to inquire into the individual cases of convicted children; and help them on release, so that their relapse into crime might be prevented. The members drew up a list of 700 friends of boys in Newgate and visited and tried to reform them. The foundation of a special prison was discussed, but nothing came of it. Another institution, the Refuge for the Destitute, took boys and girls on their discharge, taught them trades, and tried to give them a start. At Newgate boys fared better than in most prisons, for the chaplain took great interest in them, established a school, succeeded in having the most promising lads transferred to the care of the Philanthropic Society, and, finally, in keeping all the boys apart from the men and classified in four separate rooms.² And in 1817 Elizabeth Fry started a school there for the prisoners under twenty-five.

In 1835 one of the first Inspectors of Prisons was appointed in the person of a Mr. Crawford,

¹ *Report of Commissioners*, 1836.

² *The Chronicles of Newgate*...

who had specially devoted his attention to juveniles and to the Philanthropic Society. Royal Commissions sat in 1834, 1835, and 1836, and in 1837 the more summary treatment of children was recommended "for the safety of the kingdom." At last in that year the Government took the step of allotting Parkhurst Prison to boys under eighteen, acknowledging that as the age up to which their treatment should be differentiated from that of adults. As soon as their conduct was good enough they were sent to Australia with a ticket-of-leave, but they generally remained at Parkhurst at least two years. Unfortunately, although school instruction, outdoor labour, and religious teaching were provided, the place remained a thorough prison, and its inmates wore irons and were guarded by armed sentries. Even boys under fourteen were invariably confined alone in the "probationary" ward for four months after arrival "to induce them to reflect," whilst those in the "refractory" class were fed only on gruel, bread, potatoes, and seven pints weekly of the liquor in which meat had been boiled. This diet caused "an increase of weight, accompanied with a marked change in appearance, they becoming pallid and bloated."

This horrible statement is made without criticism or comment in the Report for 1851. The prison was finally closed in 1864.

The modern system of Industrial Schools supported by the Government but voluntary in origin began in 1838, when the Home Secretary was empowered to pardon boys sentenced to transportation or long periods of imprisonment, provided they were handed over to the care of schools specially existing to deal with such children, the Treasury to contribute to their support.

But the practice of committing children to ordinary prisons still continued with all its abuses. In 1845, at Millbank, a boy of ten was confined for three days in a dark dungeon with boards, one rug and one blanket for his bed, and one pound of bread and two pints of water for his daily food. He died in the prison five weeks later. Three boys were put on bread and water for seven days, for the irreverent proceeding of reading their Bibles during the sermon. In 1846 a well-educated prisoner reports: "Remand-wards are hotbeds of crime. During my stay fifteen or sixteen boys, varying in age from eight to fifteen years, passed through. . . . Throughout the whole day these boys were

associated with men who had been in nearly every prison in London . . . two-thirds when brought up for examination a second time were acquitted," and he describes how a child of seven was sneered out of his tears and taught to pick pockets, so that in a short time he was romping merrily.

In 1843 the Home Secretary suggested to the Philanthropic Society and Refuge for the Destitute the establishment of a central Reformatory subsidised by Government, but nothing was done. In 1846 the Committee of Council on Education offered grants for industrial training, and of these the Societies' schools availed themselves till they came under the control of the Home Office fourteen years later.¹ The Committee in vain recommended the expenditure of £5000 on a model penal school. In the same year a Bill was brought in for the establishment of Reformatory Schools, but was rejected on grounds of practical detail. In 1851 a conference was held at Birmingham, "which may be said to have been the first important instrument for practically concentrating

¹ Graham Balfour, *The Educational Systems of Great Britain and Ireland*, 1903.

and exciting public attention on the question how juvenile criminals should be dealt with, and for combining the hitherto scattered forces of the advocates for legislative action.”¹ It resulted in the establishment of several new voluntary schools and the encouragement of fresh efforts within Parliament, and finally in 1854 the first Reformatory Act (17 & 18 Vict. c. 86) was passed, enabling schools to obtain a certificate if reported efficient by the Inspector of Prisons, and authorising the Courts to send to them children under sixteen, provided they had been sentenced to not less than fourteen days’ preliminary imprisonment. The Treasury was to defray the cost, and parents might be forced to contribute up to 5s. a week. Commitment was to be for not less than two or more than five years; a child who absconded or refused to conform to rules might be sent to gaol for a period not exceeding three months. The first Industrial School so called was established by the Middlesex Justices at Feltham by a private Act in 1854; it admitted only convicted children between seven and fourteen years of age, and was thus rather a Reformatory than

• ¹ Mr. Sydney Turner’s *Report*, 1876.

an Industrial School, except in point of age. In 1857 the Quarter Sessions and Town Councils were empowered to contribute to the Schools, and the Act¹ declared it expedient that more extensive use should be made of them, and that the responsibility of parents should be enforced by making them pay up to 3s. a week for maintenance. A child between seven and fourteen convicted of vagrancy might be committed to an Industrial School unless the parents gave security for his behaviour, in which case he could not be detained. But if after assurance given the child were brought up on a similar charge within the specified period, a fine might be inflicted if the act of vagrancy was due to the parents' neglect. If the child had been committed to a School, he might be discharged from it at any time, provided the parents could satisfy the Justices that suitable employment had been found, or that other sufficient cause existed. He could in no case be kept there beyond the age of fifteen, save with his own consent. Power was granted to managers to release boys on license after at least half their sentence had been served, and the first Inspector was

¹ 20 & 21 Vict. c. 48.

appointed. Between 1854 and 1857 forty-four schools had been certified.¹

In 1861 the classes of children who were to be sent to Industrial Schools were enlarged, so as to include practically all who may be sent to them under the present system.² Children who had been convicted of felony were disqualified, whilst children under twelve charged with offences, and children under fourteen found begging, wandering, frequenting the company of thieves, or declared uncontrollable by their parents, became eligible, in the latter case the parents being obliged to defray the whole cost. The sum chargeable to them in ordinary circumstances was raised to 5s.

The Reformatory and Industrial Schools Acts of 1866³ consolidated and amended the previous Acts, and are substantially still in force. An inspector was permanently appointed, and allowed an assistant; every School was to be inspected at least once a year. The prison authorities, with the approval of the Secretary of State, were empowered to contribute towards the building and maintenance of such institutions. Youthful

¹ Graham Balfour.

² *Lushington Report*, 1896.

³ 29 & 30 Vict. c. 117, 118.

offenders under sixteen convicted of an offence punishable with penal servitude or imprisonment, and sentenced to prison for ten days or longer, might be sent to a Certified Reformatory School for a period of not less than two or more than five years; but a child under ten was no longer to be sent to a Reformatory, unless under certain conditions. By Section 14 —

Any person may bring before two Justices or a Magistrate any Child apparently under the age of fourteen years. . . .

That is found Begging or receiving Alms (whether actually or under the Pretext of selling or offering for Sale any Thing), or being in any Street or public Place for the purpose of so Begging or receiving Alms.

That is found wandering and not having any Home or settled Place of Abode or proper Guardianship or visible Means of Subsistence.

That is found destitute, either being an Orphan or having a surviving Parent, who is undergoing Penal Servitude or Imprisonment.

That frequents the Company of reputed Thieves.

The Justices or Magistrate before whom a Child is brought as coming within one of these Descriptions, if satisfied on Inquiry of that Fact, and that it is expedient to deal with him under this Act, may order him to be sent to a Certified Industrial School.

The sentence was to specify the period of detention, its limit without the child's consent being raised to sixteen. Refractory children might be sent from workhouses. The managers of an Industrial School might permit a child "to lodge at the dwelling of his Parent or of any trustworthy and respectable Person, so that the Managers teach, train, clothe and feed the Child in the School as if he were lodging in the School itself." And after eighteen months' detention boys might be released on license, renewable every three months, and the managers of the School might, with their own consent, apprentice them to any trade. „A child over ten who refused to conform to rules might be imprisoned for not less than fourteen days or more than three months, and then sent to a Reformatory. The difference between Reformatory and Industrial Schools, as determined by the Act of 1866, is that the former are for actual, the latter for potential delinquents, and that the Reformatories contain children on an average three years older than the Industrial Schools.¹

In 1870 it was enacted by the Elementary Education Act (33 & 34 Vict. c. 75) that "a

¹ Inspector's Report, 1900.

School Board shall have the same power of contributing money in the case of an Industrial School as is given to a Prison authority," and that with the consent of the Education Department it might establish, build, and maintain such a School. In 1900 the School Boards had ten Industrial Schools, all the English Day Industrial Schools but one, and all the Truant Schools.¹ The Prevention of Crimes Act of 1871 added to the list of those eligible for Industrial Schools the children under fourteen of women twice convicted of crime. The Elementary Education Act of 1876 increased the number of children sent to them by making it obligatory on the School authorities to enforce the Act, unless in any individual case they considered it inexpedient to do so. Day Industrial Schools were established for children whose education was neglected by their parents, or who were found wandering and in bad company. A child who without cause fails to attend an ordinary school may be sent to a Day Industrial School, or if none be available, to any Certified Industrial School, the managers having power to release him on license after one instead of after

¹ Graham Balfour.

eighteen months. The parent is liable up to 2s. a week. The Schools resemble ordinary Elementary Schools, except that simple industrial employment is added to the school work, and that the children are at once sent for if they fail to come, and on their arrival are washed. The hours are of course longer, the Schools not closing till 6 P.M. Attendance generally continues for about two years. "The system is non-punitive, and the object is to make the children as happy as possible."¹ Truant Schools have not been specially provided by an Act, but before the Law are ordinary Industrial Schools. Their distinctive feature is a brief period of detention, not exceeding three months on a first or six months on any subsequent commitment, under very strict discipline, maintained, however, "not only by punishment but by a well-considered system of encouragements."

In 1891 a short Act was passed "to assist the managers of Reformatory and Industrial Schools in advantageously launching into useful careers the children under their charge." The Act of 1893 (56 & 57 Vict. c. 48) introduced considerable changes. The minimum age of

¹ *Jushington Report*, p. 125.

admission for children not previously convicted was raised to twelve, the minimum term of detention raised to three years, and the age at which release was obligatory reduced from twenty-one to nineteen. Most important was the permission granted to Courts to send boys to Reformatory Schools without previous imprisonment, a provision which in 1899 (62 & 63 Vict. c. 12) became a command. The Youthful Offenders Act of 1901 is mainly concerned with the liability of parents.

The following figures¹ show at a glance something of the progressive reasonableness in the treatment of children —

In 1856 there were 13,981 commitments to
prison of children under seventeen (of
whom 1990 were under twelve)

„ 1860 there were 8029.

„ 1887 „ „ 4924.

„ 1897 „ „ 1688.

As to the work of the Schools, it is clear from the Report of the Lushington Commission that as recently as 1896 the industrial training left much to be desired, and that it was often

¹ *The Nineteenth Century*, January 1901.

directed rather to the profit of the School, or to the supposed moral reformation of the boy, than to the essential end of enabling him to earn good wages from the moment of discharge. Very great improvement has since been made, and the chief things now aimed at are "the acquisition of the workman's touch, the art of handling tools, an understanding of the materials, and a capacity to plan as well as to execute." Efforts are directed to make the children understand the theory of what they are practising, and "the value of drawing, for example, as the basis of technical education, is now generally recognised." How rapid progress has been in the last ten years may be seen if we take the teaching of carpentry. In 1897 it hardly existed as a subject; "in 1901, thirty-eight schools had organised systems of wood-working, while by the end of 1905 there were nearly a hundred . . . in this position."¹ In these matters, however, there is still much to be learnt from other countries.

The boys who enter Industrial and Reformatory Schools are handicapped by nature, by the want of early training, and decent home life, and by the prejudice which often in popular opinion

¹ *Catalogue of Home Office Schools Exhibition, Liverpool, 1906.* ●

attaches to them. The central aim of correctional training must therefore be to equalise the balance by making them better, keener, more skilful workers than they could have become if left at liberty. To deprive a boy, practically for no fault of his own, of freedom during the years which should be the happiest of his life, is in itself the assumption of a responsibility which can only be justified by the fullest compensation in the shape of equipment for the future. Under the economic conditions obtaining in England, this equipment could hardly be supplied in any other way than through the medium of such schools. In the face of keen competition and the constant menace to a man of being forced to join the unemployed, the becoming an efficient and skilled workman must stand before every consideration. The inducements to criminality are great for any boy or man who has to live on the verge of starvation;¹ for one who has been sent to an institution because he had a neglected childhood the danger of falling is still

¹ "The working classes, badly housed, badly nourished, vegetate at the mercy of economic crises. The worker is always on the borders of vagabondage; the vagabond is always on the borders of crime. The entire working classes are thus exposed in the first line, and whether it is a question of disease or of crime, it is they who succumb first."—Professor Prins, quoted by Havelock Ellis.

greater. To furnish him with the ability always to command a good wage in the labour market, so that no hereditary or constitutional taint of sloth and vice may reappear and flourish in the congenial atmosphere of idleness, is the greatest kindness and the greatest safeguard, and our "Home Office Schools" may be proud of their success in this direction. Nevertheless, they must not stand still, nor be too satisfied with the position they have already attained, but steadily watch and constantly adapt themselves to the conditions of labour outside. It is of little use to teach boys to make by hand things which are always made by machinery, or to keep them for years at some branch of work in which they have nothing further, in the School at any rate, to learn. They may make for instance, pair after pair of clumsy boots and suit after suit of ugly clothes for themselves and their fellows without becoming any the more fit to enter good bootmakers' or tailors' shops on their discharge. Nor can such work arouse interest, give play to originality, or develop the affection for and pride in his craft which is essential to the good workman.

We have at present reached but a half-way

house on the journey towards the right treatment of youthful delinquency, and must not for a moment regard any part of our system as perfect and final. For the movement which began with the foundation of the Marine Society will, we may hope, travel as far in the twentieth century as in the nineteenth. Just as the Reformatory and Industrial School system had its birth in voluntary effort alone, so now private work points the way to further legislation. The greatest advance in the treatment of young offenders since the Act of 1866 is seen in the founding of the Borstal Association, and the co-operation with it of the authorities which began in 1902. This system, however, only touches a limited class, and that the worst, of lads between sixteen and twenty-one, whilst, as we have tried to show, and as all who have any experience agree, the most pressing necessity at the present time is an alteration in our methods of dealing with the great mass of the youths who visit our prisons. Some such system as that we have indicated in Chapter IX. would do much to cut off the supply of criminals at its source.

In conclusion, the remedies we have suggested are in themselves, we feel confident, thoroughly

sound and effective, but if there is, soon, as seems probable, to be an attempt at legislation in this direction, a re-adjustment of thought concerning the material to be dealt with, is in many minds essential, whilst the spirit in which the law is administered must be altered as well as the law itself. It is vain to plead that this is a matter only for experts; experts must examine and state the case, but, as it seems almost too elementary to remark, any alteration in the law must represent the general will. That is why we have aimed at awakening a wider, a more "popular" interest.

In certain cases crime may be the expression of a form of mental disease; in the majority its origins must not be sought in the individual, but in the conditions in which he is placed. Hence it can be only the most shallow view that sees in the young criminal merely a bad thing to be repressed, and it is unjust to be content to say it is all his own fault, and that he ought to know better. "Legitimate desires, illegitimately gratified, expresses comprehensively the common cause of the crimes of youthful criminals."¹ We all know that there are children who from an early age

¹ *Amira Year-Book*, 1892.

refuse to conform to the customs and regulations of the community in which they live. And it is a truism to say that the development of the race is reproduced to some extent in that of the individual, so that the boy has in him many of the instincts—good enough instincts in themselves—of the savage, which necessarily bring him into conflict with the civilisation to which he has to adapt himself. Whilst in the normal child these forces from the past are but an under-current, an actual reversion to the type of an uncivilised or less civilised state of society, finding expression in the anti-social temperament, is as common among the rich as among the poor. A fair proportion of Public School boys, *e.g.*, constantly endeavour to resist the rules by which, for the common good, they are bound. But position, circumstances, the watchful care and control of parents and schoolmasters—in a word, environment—protect the children of the well-to-do from themselves, and train their social instincts. The children of the poor, on the other hand, too often grow up without guidance or restraint, amid surroundings which actually favour the development of disorderly tendencies. We are far from wishing to condone the misdeeds of the really

criminal—on the contrary, as we have explained, we would see them more severely though more rationally punished—severely punished not merely for the protection of Society, certainly not in a spirit of revenge, but because whatever is likely to tend to their reformation is not only the greatest kindness but the barest justice to them. How little many of these poor fellows are ultimately responsible for their sins has been revealed, for example, in Germany, by the statistics collected in connection with the working of the Law of 1901. One or both parents of, on an average, 45 per cent of the young people to whom it applies, are found to have suffered conviction, whilst the homes of 30 per cent have been ruined by drink or immorality. The actual breaking of the law is indeed often only a symptom of deep-rooted evil; the neglected child is a potential criminal; the criminal has frequently been a neglected child, still more frequently a neglected youth in those critical formative years that precede his majority. Neglect by parents is most culpable, but it is often due to ignorance, poverty, misfortune, circumstances in general for which some excuse may be found in the hardness of their lot. For neglect by the State there is

no excuse. Theories of punishment have altered, other countries have adapted their treatment to the new principles and methods; in England, owing to private initiative, they have to a small extent been tried with marked success. It is no slight responsibility to continue for a year or a month longer than is necessary the old, foolish treatment, with blind — wilfully blind — eyes turned to the light.

It may be argued that the race in pursuing its higher purposes must inevitably leave a certain amount of waste, for the higher the standard set the more difficult for the rank and file to follow, the more inexorable the doom of those who "fall out." But the waste material must not be tossed aside recklessly — the grain among the chaff — and we must look to it that it is as small, as considerately and wisely dealt with as may be. Granted that there must be a criminal element in Society, let it at least consist only of those who, by heredity, mental weakness, and general constitution, are predisposed to crime. We have said that there is no excuse for neglect by the State; what is the State in this relation but an aggregate of individuals? Let us realise that it is a matter which affects us all, not merely, to

put it on its lowest grounds, practically, through the rates, but ethically. If Society, whether in pursuit of high ends or low, is responsible for the conditions which produce and perpetuate the criminal, as a member of that Society each individual shares the responsibility, and if he shirk it, if he neglect to recognise it, is in his measure no less guilty than the "criminal" he so lightly creates, so lightly condemns. Once again, what is above all wanted in dealing with youthful offenders is more thought and interest, more sympathy and consideration, more reason and consistency. Try to relieve their troubles, make it easier for them to do right, endow them with health and strength and ability to work, teach them self-respect, encourage them, make them feel that you approach them, not in the spirit of repression and revenge which the present system reflects, but with kindly anxiety for their welfare. Then their numbers will appreciably decrease.

APPENDIX

FRANCE

LOI DE 1850¹

I. LES mineurs des deux sexes détenus à raison de crimes, délits, contraventions aux lois fiscales, ou par voie de correction paternelle, reçoivent soit pendant leur détention préventive, soit pendant leur séjour dans les établissements pénitentiaires, une éducation morale, religieuse et professionnelle.

II. Dans les maisons d'arrêt et de justice un quartier distinct est affecté aux jeunes détenus de toute catégorie.

III. Les jeunes détenus acquittés en vertu de l'article 66 du Code pénal comme ayant agi sans discernement mais non remis à leurs parents, sont conduits dans une colonie pénitentiaire ; ils y sont élevés en commun, sous une discipline sévère, et appliqués aux travaux de l'agriculture ainsi qu'aux principales industries qui s'y rattachent. Il est pourvu à leur instruction élémentaire.

IV. Les écoles pénitentiaires reçoivent également les jeunes détenus condamnés à un emprisonnement de plus de six mois et qui n'excède pas deux ans.

Pendant les trois premiers mois, ces jeunes détenus sont renfermés dans un quartier distinct et appliqués à des travaux sédentaires.

A l'expiration de ce terme le Directeur peut en raison

¹ S. Louis Exhibition, 1904. Section des Enfants soumis à l'éducation pénitentiaire.

de leur bonne conduite, les admettre aux travaux agricoles de la colonie.

V. Les colonies pénitenciaires sont des établissements publics ou privés.

IX. Les jeunes détenus des colonies pénitenciaires peuvent obtenir à titre d'épreuve et sous des conditions déterminées par le règlement d'administration publique d'être placés provisoirement hors de la colonie.

X. Il est établi une ou plusieurs colonies correctionnelles où sont conduits et élevés :

(1) les jeunes détenus condamnés à un emprisonnement de plus de deux années.

(2) les jeunes détenus des colonies pénitenciaires qui auront été déclarés insubordonnés.

XI. Les jeunes détenus des colonies correctionnelles sont pendant les six premiers mois soumis à l'emprisonnement et appliqués à des travaux sédentaires.

A l'expiration de ce terme le directeur peut en raison de leur bonne conduite les admettre aux travaux agricoles de la colonie.

XX. Sont à la charge de l'État :

(1) les frais de création et d'entretien des colonies correctionnelles et des établissements publics servant de colonies et de maisons pénitenciaires.

(2) les subventions aux établissements privés auxquels de jeunes détenus seront confiés.

NOTE.¹—La loi du 5 juin 1850 (art. 19) place les jeunes détenus à l'époque de leur libération sous le patronage de l'assistance publique, pendant trois ans au moins ; mais cette disposition n'a jamais été appliquée.

Article 66 du Code Pénal

Lorsque l'accusé aura moins de seize ans, s'il est décidé qu'il a agi sans discernement, il sera acquitté ; mais il sera, selon les circonstances, remis à ses parents ou conduit

¹ Maurice Block, *Dictionnaire de l'Administration Française*, 1905.

• dans une maison de correction, pour y être élevé et détenu pendant tel nombre d'années que le jugement déterminera et que toutefois ne pourra excéder l'époque où il aura accompli sa vingtième année.

ENFANTS MORALEMENT ABANDONNÉS, VICTIMES OU COUPABLES. LOIS DU 24 JULI 1889 ET DU 19 AVRIL 1898¹

Déchéance de la puissance paternelle

III. Les père et mère et ascendants sont déchus de plein droit à l'égard de tous leurs enfants et descendants, de la puissance paternelle et des droits qui s'y rattachent :

1°. s'ils sont condamnés pour avoir excité, favorisé ou facilité la prostitution ou la corruption de leur enfant mineur.

2°. s'ils sont condamnés, soit comme auteurs, co-auteurs ou complices d'un crime commis sur la personne d'un ou plusieurs de leurs enfants, soit comme co-auteurs ou complices d'un crime commis par un ou plusieurs de leurs enfants.

3°. s'ils sont condamnés deux fois comme auteurs, co-auteurs ou complices d'un délit commis sur la personne d'un ou plusieurs de leurs enfants.

4°. s'ils sont condamnés deux fois pour excitation habituelle de mineurs à la débauche.

IV. Peuvent être déclarés déchus des mêmes droits :

1. les père et mère condamnés aux travaux forcés à perpétuité ou à temps, ou à la réclusion comme auteurs, co-auteurs ou complices d'un crime non-politique non compris dans ceux qui entraînent la déchéance de plein droit.

2°. les père et mère condamnés deux fois pour un des faits suivants : séquestration, suppression, exposition ou abandon d'enfants ou pour vagabondage.

3°. les père et mère condamnés pour ivresse manifeste, ceux dont les enfants ont été conduits dans une

¹ Maurice Block, *Dictionnaire de l'Administration Française*, 1905.

maison de correction, par application de l'article 66 du Code pénal.

4°. En dehors de toute condamnation les père et mère qui par leur ivrognerie habituelle, leur inconduite notoire et scandaleuse ou par de mauvais traitements, compromettent soit la santé, soit la sécurité, soit la moralité de leurs enfants.

5°. A ces cas, prévus par la loi de 1889 il faut ajouter celui de l'art. 3 de la loi du 19 avril 1898, parents ayant livré leurs enfants de moins de seize ans à des acrobats, saltimbanques, charlatans, montreurs d'animaux ou directeurs de cirques ou les ayant placés sous la conduite de vagabonds, des gens sans aveu et faisant métier de mendicité.

7°. Le tribunal qui prononce sur la tutelle, fixe en même temps le montant de la pension alimentaire due par les parents, ou déclare qu'à raison de leur indigence il ne sera exigé aucune pension.

LOI SUR LE SERVICE DES ENFANTS ASSISTÉS¹ DU 27 JUIN 1904

Art. 1^{er}. Sont qualifiés enfants . . . placés sous la protection ou sous la tutelle de l'assistance publique.

2. Le service des enfants assistés comprend :

2°. Les enfants en garde . . .

5. Est dit enfant en garde, l'enfant dont la garde a été confiée, par les tribunaux, à l'assistance publique.

11. La protection des enfants de toute catégorie et la tutelle des pupilles de l'assistance publique, instituées par la présente loi, sont exercées par le préfet ou par son délégué, l'inspecteur départemental.

Elles sont exercées, dans le département de la Seine, par le directeur de l'administration générale de l'assistance publique de Paris.

¹ *Bulletin des Lois de la République Française*, No. 2575.

12. Le tuteur est assisté d'un conseil de famille, formé par une commission de sept membres, élus par le conseil général et renouvelés tous les quatre ans.

Le tuteur ou son délégué assiste aux séances du conseil, il est entendu quand il le demande.

17. L'enfant réclamé par ses parents peut leur être remis si le tuteur estime, après avis du conseil de famille, que la remise est dans l'intérêt de l'enfant. L'administration pourra, en outre, autoriser des remises d'essai durant lesquelles sa surveillance continuera à s'exercer pendant un an au moins ; à l'expiration de ce délai, la remise deviendra définitive.

Les parents devront rembourser, en une seule fois ou par versements mensuels échelonnés sur une ou plusieurs années, la dépense faite pour l'entretien de leur enfant, à moins que la commission départementale ou, dans le département de la Seine, une délégation du conseil général, ne les exonère en tout ou partie.

21. Les pupilles âgés de moins de treize ans sont, sauf exception, confiés à des familles habitant la campagne.

22. Le lieu de placement du pupille reste secret, sauf décision du préfet prise dans l'intérêt de l'enfant. La mère et la personne qui ont présenté l'enfant peuvent être renseignées à des époques fixes sur l'existence ou la mort de celui-ci.

26. Le pupille . . . est mis en apprentissage, de préférence dans les professions agricoles ; il est pourvu d'un trousseau ; un contrat écrit . . . détermine les conditions du placement. . . .

27. Tout pupille de l'assistance . . . est l'objet d'une surveillance qu'exercent les inspecteurs et les sous-inspecteurs de l'assistance publique. Les visites ont lieu à domicile.

35. Le directeur de l'assistance publique à Paris exerce les attributions qui lui sont conférées par l'article 11 de la présente loi, au moyen d'agents que le préfet de la Seine nomme sur la proposition du directeur. Chaque

agent réside dans la circonscription où sont placés les pupilles dont la surveillance lui est confiée.

Le préfet de la Seine contrôle le service des agents susvisés, au moyen d'inspecteurs que nomme le ministre de l'intérieur.

38. Le père, la mère et les ascendants d'un pupille de l'assistance ou d'un enfant dont l'administration a la garde restent tenus, envers lui, de la dette alimentaire.

LOI RELATIVE À L'ÉDUCATION DES PUPILLES DE L'ASSISTANCE PUBLIQUE DIFFICILES OU VICIEUX DU 28 JUIN 1904

Art. 1^{er}. Les pupilles de l'assistance publique qui, à raison de leur indiscipline ou de leurs défauts de caractère, ne peuvent pas être confiés à des familles, sont placés, par décision du préfet, sur le rapport de l'inspecteur départemental, dans une école professionnelle.

Les écoles professionnelles, agricoles ou industrielles, sont des établissements départementaux ou des établissements privés.

Les associations de bienfaisance et les établissements privés, qui voudront être autorisés à recevoir et à élever des pupilles de l'assistance, devront en faire la demande au ministre de l'intérieur et soumettre à son approbation leurs statuts, règlements et locaux.

Chaque année le ministre de l'intérieur arrêtera la liste des établissements autorisés à recevoir et à élever des pupilles de l'assistance.

Un règlement d'administration publique, rendu dans le délai d'un an, à partir de la promulgation de la présente loi, déterminera les mesures propres à assurer le placement provisoire ou définitif, la surveillance, l'éducation morale et professionnelle des pupilles placés dans les établissements départementaux ou privés, ainsi que le patronage de ces pupilles à la fin de leur placement.

2. Lorsqu'un pupille de l'assistance, par des actes d'immoralité, de violence ou de cruauté, donne lieu à des

de mécontentement très graves, le tribunal civil peut, sur le rapport de l'inspecteur des enfants assistés et sur la demande du préfet dans les départements, ou du directeur de l'assistance publique de Paris dans la Seine, décider, sans frais, qu'il sera confié à l'administration pénitentiaire.

L'administration pénitentiaire le recevra dans un de ses établissements ou quartiers d'observation et l'y maintiendra jusqu'à ce que les renseignements recueillis et le résultat de l'observation permettent de décider s'il doit être placé dans une colonie ou maison pénitentiaire ou dans une colonie correctionnelle.

3. Chaque département, faute d'avoir un établissement public destiné à recevoir les pupilles de l'assistance visés à l'article 1^{er} de la présente loi, est tenu, dans un délai de trois ans, de traiter, à cet effet, soit avec un établissement public d'un autre département, soit avec un établissement privé autorisé par le ministre de l'intérieur.

Deux ou plusieurs départements peuvent créer ou entretenir à frais communs une école professionnelle de pupilles.

4. L'État contribue aux dépenses faites, par les départements, pour l'établissement d'écoles professionnelles de pupilles dans la proportion de moitié. . . .

MAURICE BLOCK, "DICTIONNAIRE DE L'ADMINISTRATION FRANÇAISE," 1905, RÉGIME PÉNITENTIAIRE. VI.
ÉDUCATION CORRECTIONNELLE

90. . . . Il faut qu'un jeune détenu soit foncièrement pervers pour être gardé jusqu'au jour fixé pour sa libération définitive; pour peu qu'il veuille bien faire, il est, après deux ou trois ans d'éducation, libéré provisoirement et rendu à ses parents; en cas d'indignité de ceux-ci, il est, soit placé, par les soins de l'administration, chez des particuliers, soit engagé dans l'armée ou la marine.

91. Le règlement du 10 avril 1869, qui était déjà par lui-même très humain, on peut même dire paternel, a été encore adouci et amélioré par diverses mesures presque

toutes intervenues dans ces vingt dernières années. Le bien-être matériel, des "colons" a été augmenté. Une plus large place a été faite à l'instruction primaire et à l'enseignement industriel. Les contremaîtres sont choisis avec soin; le nombre des institutions a été triplé. Et comme en si délicate matière, les détails extérieurs ont parfois une particulière importance l'ancienne appellation de "jeunes détenus" a été remplacée par celle de "pupilles," l'ancien costume en droguet par celui, moins disgracieux, des bataillons scolaires; les primitifs gardiens eux-mêmes ont changé de nom et d'uniforme; ils s'appellent aujourd'hui surveillants ou surveillants-contremaîtres et portent des vêtements qui les différencient de leurs collègues des prisons proprement dites. Depuis le 15 juillet 1898 les pupilles de l'administration pénitentiaire ne sont plus transférés par les voitures cellulaires, mais prennent place avec les personnes qui les accompagnent dans les compartiments ordinaires des trains. Enfin, par arrêté du 5 juillet 1899 le régime disciplinaire a été considérablement atténué, avec tendance à substituer aux punitions proprement dites les *privations de récompenses*.

94. *Art. 67 et 69 du Code Pénal.*—Ces articles prévoient pour les mineurs ayant agi *avec discernement* des peines de droit commun atténuées ou abaissées d'un degré suivant la nature des infractions, mais pouvant quand même aller de simple emprisonnement jusqu'aux travaux forcés inclusivement. . . .

. . . Depuis plusieurs années les tribunaux s'attachent à éviter aux jeunes délinquants le *tare* d'un précoce casier judiciaire. A Paris plus spécialement, il s'est formé, dès 1889 . . . un "comité de protection des enfants traduits en justice" dont l'action bienfaisante eut, pour premier effet, de soustraire les enfants arrêtés à la procédure sommaire des flagrants délits pour les faire bénéficier des lenteurs tutélaires de la grande instruction. C'est de cette époque également que date, en ce qui concerne les mêmes justiciables, la diminution progressive des condamnations à l'emprisonnement en matière correctionnelle.

95. *Correction paternelle.*—Les art. 375 et suivants du Code civil confèrent au père de famille “qui a des sujets de mécontentement très graves sur la conduite d'un enfant,” le droit de le faire détenir pendant un délai qui ne pourra excéder *un mois* s'il est âgé de moins de seize ans et *six mois*, si l'enfant, sans être majeur, a dépassé la seizième année. Dans l'un et l'autre cas, il n'y a aucunes écritures judiciaires ou administratives, sinon l'ordre même d'incarcération.

98. *Patronage.*—En 1833 l'initiative privée avait créé, à Paris, la première société de patronage véritablement organisée, celle des *jeunes détenus et des jeunes libérés du département de la Seine* . . . qui continue à assurer l'avenir des jeunes détenus dont elle prend charge avec un soin et une clairvoyance véritablement remarquables.

99. . . . la *Société de protection des engagés volontaires élevés sous la tutelle administrative* qui sauve annuellement par le travail, par la bonne conduite et par les fatigues courageusement supportées, un nombre toujours plus grand de jeunes gens dont les débuts dans la vie ont été marqués par des défaillances morales. En dehors de ces associations principales, d'autres moins importantes, mais tout aussi actives et bien intentionnées, s'organisent à Paris et dans les départements.

COMITÉS DE DÉFENSE DES ENFANTS TRADUITS EN JUSTICE¹

. . . Depuis bientôt douze années ils se sont multipliés, à ce point qu'à une époque prochaine, la plupart des villes où siègent une Cour d'appel, ou un tribunal important seront pourvues d'une création de ce genre.

En France, tout mineur âgé de moins de seize ans, arrêté sur la voie publique pour un délit de droit commun, tel que vagabondage, mendicité, outrages aux mœurs, rébellion, coups, tentative d'incendie, de meurtre, etc., est conduit à la mairie, au commissariat de police, ou à la

¹ *Third International Congress*, 1902. M. Paul Flandin.

gendarmerie, et, de là, au Procureur de la République, qui le renvoie au juge d'instruction chargé de procéder à une information.

Aussitôt qu'il est saisi de l'affaire le juge recherche, pour les joindre au dossier, tous procès-verbaux antérieurs relatifs aux précédentes arrestations dont le jeune "délquant a pu être l'objet. Il se renseigne sur ses antécédents dans la famille, à l'école ou à l'apprentissage ; il dirige son enquête sur les enseignements donnés par le père et la mère, sur leur moralité et sur leur conduite. Par des confrontations et de fréquents interrogatoires il cherche à se bien pénétrer de la valeur intellectuelle et morale de l'enfant, même de ses aptitudes professionnelles et de sa santé. Si cette première enquête n'a pas suffi à le fixer, s'il a conservé des doutes sur la nature des mesures à prendre dans l'intérêt du mineur, soit pour lui trouver un placement avantageux, soit pour le faire envoyer dans une maison de *correction*, voici le moyen fréquemment employé par nos juges d'instruction près le Tribunal de la Seine, et qui leur a presque toujours réussi.

Le juge suspend, pour quelques semaines, le cours de son information, ainsi que l'internement de l'enfant à la maison d'arrêt. Il envoie son jeune prévenu à l'assistance publique, avec un rapport sommaire sur la prévention. L'assistance reçoit l'enfant et le place temporairement, à l'essai, dans un asile spécial, où, dans une vie nouvelle, le mineur, soigneusement surveillé, retrouvera des condisciples, pupilles de l'assistance, dont il partagera les travaux, les exercices et les jeux. Si, après quelques semaines d'épreuve, l'expérience est jugée suffisante, le mineur, s'il s'est bien conduit, est renvoyé au juge, avec un rapport favorable et une proposition de placement. Dans le cas contraire, si ce temps d'épreuve n'a abouti qu'à des notes mauvaises, le jeune prévenu est définitivement renvoyé au juge, qui joint au dossier le rapport dressé par l'assistance publique et reprend son information au point où il l'avait laissée.

Généralement l'enfant reconnu vicieux, corrompu et

irréductible est mûr pour la maison de *correction*. D'accord avec le Parquet le juge d'instruction clôt son information et renvoie le mineur devant le Tribunal correctionnel qui l'acquitte comme ayant agi *sans discernement*, mais ordonne, en même temps, qu'il sera placé, jusqu'à une époque voisine de sa majorité, dans une maison de *correction*.

Parfois il arrive que de saines interventions et de sages conseils, pendant toute la durée de la prévention, ont transformé l'enfant, lorsqu'il comparait devant le Tribunal; et l'on voit quelquefois les juges acquitter définitivement le mineur, lorsqu'un patronage, ou toute autre personne absolument digne de confiance, intervienne pour proposer un placement avantageux.

TRANSLATION

LAW OF 1850¹

I. Minors of both sexes imprisoned for crimes, misdemeanours, breaches of the "fiscal" laws, or as a method of paternal correction receive, either during their detention on remand or during their stay in penitentiary establishments, a moral, religious, and professional education.

II. In the prisons and courts of justice distinct quarters are assigned to young prisoners of every class.

III. Young prisoners acquitted in virtue of Article 66 of the Penal Code as having acted without discernment, but not restored to their parents, are taken to a Penitentiary Colony; they there receive a common education under severe discipline, and are employed in agricultural labour as well as in the principal industries connected with it. Their elementary instruction is provided for.

IV. The Penitentiary Schools similarly receive young

¹ St. Louis Exhibition, 1904. Section des Enfants soumis à l'éducation pénitentiaire.

prisoners condemned to a term of imprisonment of more than six months but not exceeding two years.

During the first three months these young prisoners are confined in a special quarter, and employed in sedentary labour.

On the expiration of this period the Director, in consideration of their good conduct, can admit them to the agricultural work of the colony.

V. The Penitentiary Colonies are either public or private.

IX. The young prisoners in Penitentiary Colonies may be provisionally placed outside the colony on probation and under conditions determined by the regulations of the Public Administration.

X. One or more Correctional Colonies are established to which there are taken to be educated :

(1) Young prisoners condemned to an imprisonment of more than two years.

(2) Young prisoners from the Penitentiary Colonies who have been declared insubordinate.

XI. The young prisoners in Correctional Colonies are subjected during the first six months to imprisonment and employed in sedentary labour.

On the expiration of this period the Director, in consideration of their good conduct, can admit them to the agricultural labour of the colony.

XX. The State is responsible for :

(1) The expenses of the foundation and support of the Correctional Colonies and public establishments used as colonies, and of the penitentiary establishments.

(2) Subsidies to private establishments to which young prisoners are entrusted.

NOTE.¹—The Law of June 5, 1850 (Art. 19), places young prisoners at the time of their liberation under the patronage of "l'Assistance publique," for at least three years ; but this provision has never been applied.

¹ Maurice Block, *Dictionnaire de l'Administration Française*, 1905.

Article 66 of the Penal Code

When the accused is under sixteen years of age, if it be decided that he has acted *without* discernment, he shall be acquitted; but according to circumstances he shall be restored to his parents or sent to a House of Correction, to be there educated and detained for as many years as his sentence shall determine, which, however, shall not go beyond the attainment of his twentieth year.

CHILDREN MORALLY ABANDONED, VICTIMS OR OFFENDERS.
LAWS OF JULY 24, 1889, AND APRIL 19, 1898¹

Forfeiture of Paternal Rights

III. The father, mother, and relatives forfeit civil rights, paternal control and the rights attaching to it, in respect of all their children and descendants:

(1) If they are convicted of having provoked, encouraged, or facilitated the prostitution or corruption of their child while yet a minor,

(2) If they are convicted as authors, joint-authors, or accomplices of a crime committed against the person of one or more of their children, or as joint-authors or accomplices of a crime committed by one or more of their children.

(3) If they are twice convicted as authors, joint-authors, or accomplices of a misdemeanour committed against the person of one or more of their children.

(4) If they are twice convicted for habitual provocation of minors to debauchery.

IV. The following may be pronounced to have forfeited the same rights:

(1) The father and mother condemned to penal servitude in perpetuity or for a period, or to confinement as authors, joint-authors, or accomplices of a non-political crime not included amongst those which entail the forfeiture of civil rights.

¹ Maurice Block, *Dictionnaire de l'Administration Française*, 1905.

(2) The father and mother twice convicted of one of the following acts: sequestration, suppression, exposure or abandonment of children, or for vagrancy.

(3) The father and mother convicted of manifest drunkenness . . . those whose children have been sent to a House of Correction by application of Article 66 of the Penal Code.

(4) Apart from any conviction the father and mother who, by their habitual drunkenness, notorious and scandalous misconduct or ill-treatment, compromise either the health, safety, or morality of their children.

(5) To these cases, provided for by the Law of 1889 must be added that of Article 3 of the Law of April 19, 1898—parents who have handed over their children under sixteen years of age to acrobats, mountebanks, charlatans, exhibitors of animals or managers of circuses, or placed them under the charge of vagabonds, vagrants, and professional beggars.

(7) The Court which pronounces in favour of guardianship at the same time fixes the amount of the sum due by the parents for maintenance, or declares that in consideration of their poverty no payment will be enforced.

ASSISTED CHILDREN'S LAW¹ OF JUNE 27, 1904

ARTICLE 1.—Children are qualified . . . who are placed under the protection or guardianship of the Assistance Publique.

2. Under "assisted children" are comprised:

(2) Children under guardianship.

5. A child under guardianship is a child the care of which has been entrusted by the Courts to the Assistance Publique.

11. The protection of children of every class and the guardianship of pupils of the Assistance Publique estab-

¹ *Bulletin des Lois de la République Française*, No. 42575.

ished by the present law are undertaken by the Prefect or by his deputy, the Departmental Inspector.

• In the Department of the Seine they are exercised by the Director of the General Administration of the Assistance Publique of Paris.

12. • The Guardian is assisted by a Family Council, formed by a committee of seven members, elected by the General Council and renewed every four years. •

• The Guardian or his deputy is present at the meetings of the Council, and is heard when he desires.

17. A child reclaimed by its parents may be restored to them if the Guardian considers, after the deliberations of the Family Council, that the restoration is in the child's interest. The administration may moreover authorise a conditional restoration, during which surveillance will continue to be exercised for at least one year; on the expiration of this period the restoration will become complete.

• • • • •
The parents must refund, either by one payment or by monthly instalments spread over a period of one or more years, the sum spent on the maintenance of their child, unless the Departmental Committee, or in the Department of the Seine a delegation of the General Council, exonerates them wholly or in part.

21. Pupils under 13 years of age are, without exception, entrusted to families resident in the country.

22. The place where the pupil is placed remains secret, unless by a decision of the Prefect, in the child's interest. The mother and the person who has handed over the child may be informed at fixed periods of its existence or death.

26. The pupil . . . is apprenticed, by preference to an agricultural profession; he is provided with an outfit; a written contract . . . determines the conditions under which he is placed.

• 27. Every pupil of the Assistance . . . is the object of a supervision exercised by the inspectors and sub-

inspectors of the Assistance Publique. The visits are domiciliary.

35. The Director of the Assistance Publique in Paris exercises the powers conferred upon him by Article 11 of the present Law by means of agents appointed by the Prefect of the Seine at the Director's suggestion. Every agent resides in the borough where the pupils whose surveillance is entrusted to him are placed.

The Prefect of the Seine controls the service of agents referred to above by means of inspectors appointed by the Minister of the Interior.

38. The father, mother, and relatives of a pupil of the Assistance or of a child in the charge of the Administration are responsible for his maintenance.

LAW RELATING TO THE EDUCATION OF TROUBLESOME OR VICIOUS PUPILS OF THE ASSISTANCE PUBLIQUE OF JUNE 28, 1904

ARTICLE 1.—The pupils of the Assistance Publique who by reason of their insubordination or defects of character cannot be entrusted to families, are placed, by decision of the Prefect, on the report of the Departmental Inspector, in a Professional School.

The Professional Schools, agricultural or industrial, are departmental or private establishments.

Philanthropic associations and private establishments desirous of authorisation to receive and educate pupils of the Assistance must apply to the Minister of the Interior and submit to his approbation their statutes, rules, and premises.

Every year the Minister of the Interior checks the list of establishments authorised to receive and educate pupils of the Assistance.

Regulations of the Public Administration, issued a year after the promulgation of the present Law, shall determine the measures proper for assuring the provisional or definite placing, the supervision, moral and professional

education of the pupils placed in departmental or private establishments, as well as the patronage of these pupils at the end of their detention.

2. When a pupil of the Assistance, by acts of immorality, violence, or cruelty, gives very serious occasion for dissatisfaction, the Civil Court can, on the report of the Inspector of Assisted Children and on the application of the Prefect in the Departments or of the Director of the Assistance Publique in Paris, decide, without costs, that he shall be entrusted to the Penitentiary Administration.

The Penitentiary Administration will receive him in one of its establishments or quarters of observation, and will keep him there until the information collected and the result of observation allow of a decision as to whether he should be placed in a Penitential Colony or Prison, or in a Correctional Colony.

3. Every Department, unless it has a public establishment destined for the reception of the pupils of the Assistance referred to in Article 1 of the present Law, must, within the space of three years, negotiate to this effect either with a public establishment of another Department or with a private establishment authorised by the Minister of the Interior.

Two or more Departments can found or maintain a Professional School at common expense.

4. The State contributes in the proportion of one-half to the expenses incurred by the Departments in establishing Professional Schools.

MAURICE BLOCK, "DICTIONARY OF FRENCH ADMINISTRATION," 1905. PENITENTIARY RÉGIME. VI. CORRECTIONAL EDUCATION

90. . . . A young prisoner must be thoroughly froward to be detained until the day fixed for his definite release; if he has the slightest desire to do right, after two or three years of education he is released

conditionally and restored to his parents; in case of their unfitness he is either placed, by the care of the Administration, with private persons, or enlisted in the Army or Navy.

91. The regulations of April 10, 1869, which were already in themselves very humane, one may almost say paternal, have been further mitigated and improved by various measures, nearly all adopted during the last twenty years. The material welfare of the "colonists" has been increased. A larger place has been given to primary instruction and industrial training. The overseers are carefully selected; the number of institutions has been trebled. And as in so delicate a matter external details sometimes have particular importance, the old appellation of "young prisoners" has been replaced by that of "pupils," the old coarse tweed clothing by the less uncomely dress of schoolboys; the original warders themselves have changed their name and their uniform: they are now called superintendents or superintendent-overseers, and wear a dress which distinguishes them from their colleagues of the prisons properly so called. Since July 15, 1898, the pupils of the Penitentiary Administration are no longer transferred in cellular vans, but take their places with the persons who accompany them in the ordinary compartments of trains. Finally, by a decree of July 5, 1899, the disciplinary régime has been considerably mitigated, with a tendency to substitute forfeiture of rewards for regular punishments.

94. *Articles 67 and 69 of the Penal Code.*—These articles provide for minors who have acted *with discernment* penalties of common law attenuated or reduced to a degree corresponding to the nature of their offences, but extending nevertheless from simple imprisonment to penal servitude inclusively. . . . For many years the Courts have endeavoured to preserve youthful delinquents from the stain of an early recorded conviction. In Paris especially has been formed since 1889 . . . a "Committee of Protection for Children handed over to Justice," the first

effect of whose beneficent action was to withdraw arrested children from summary procedure for flagrant misdemeanours and cause them to benefit by the tutelary care which a prolonged judicial inquiry involves. From this epoch equally dates, in so far as the same offenders are concerned, the progressive diminution of condemnations to imprisonment as a corrective measure.

95. *Paternal Correction*.—Articles 375 and following of the Civil Code confer on the father of a family "who has very serious grounds for discontent with the conduct of a child" the right of having him confined for a period which cannot exceed one month if he is under sixteen years of age and six months if the child, not having attained his majority, has passed his sixteenth year. In either case there are no judicial or administrative records, except the order of incarceration itself.

98. *Patronage*.—In 1833 private initiative created in Paris the first really organised Society of Patronage, that of *Young Prisoners and Young Discharged Prisoners of the Department of the Seine*, . . . which continues to assure, with truly remarkable care and perspicuity, the future of young prisoners of whom it takes charge.

99. . . . the *Society for the Protection of Volunteer Recruits brought up under the Guardianship of the Administration*, which rescues annually by work, good conduct, and courageously borne fatigues an ever-increasing number of young men whose entrance into life has been marked by moral shortcomings. Besides these principal associations others less important, but just as active and well-intentioned, have been organised in Paris and the Departments.

COMMITTEES OF PROTECTION FOR CHILDREN HANDED OVER TO JUSTICE¹

. . . During nearly twelve years these have multiplied to such an extent that very soon the majority of towns

¹ *Third International Congress*, 1902. M. Paul Flandin.

where a Court of Appeal or important tribunal holds sessions will be provided with an organisation of this kind.

In France every minor under sixteen years of age arrested on the public highway for a misdemeanour under the common law, such as vagrancy, begging, moral offences, rebellion, blows, attempted arson, murder, etc., is taken to the town hall, commissariat of police, or the quarters of the gendarmerie, and thence to the public prosecutor, who sends him to the examining magistrate, whose function it is to undertake an inquiry.

As soon as the case is laid before him the magistrate collects, in order to add them to the *dossier*, all previous reports relating to former arrests of which the youthful offender may have been the object. He investigates his antecedents in his family, at school, or as an apprentice; he inquires into the instruction given by the father and mother, their morals and their conduct. By interviews and frequent examination he seeks to gain a clear impression of the intellectual and moral worth of the child, even of his professional ability and his health. If this first investigation has been insufficient to decide him, if he still has doubts as to the nature of the measures to be taken in the minor's interest, whether to find him an advantageous situation or to have him sent to a House of Correction, the following is the method frequently employed by our examining magistrates of the tribunal of the Seine, and which they have nearly always found successful.

The magistrate suspends for a few weeks the course of his inquiry, as well as the commitment of the child to gaol. He sends the young accused to the Assistance Publique, with a summary report on the prosecution. The Assistance receives the child and places him temporarily on probation in a special institution, where the minor, carefully supervised in a new life, will find his fellow-pupils of the Assistance, and share their work, exercises, and games. If after a few weeks' trial it is

considered that sufficient experiment has been made, the minor, if he has behaved well, is sent back to the magistrate with a favourable report and an offer to find him a home. If, on the contrary, the period of probation has only resulted in an unfavourable memorandum, the young prisoner is definitely returned to the magistrate, who adds to the *dossier* the report drawn up by the Assistance Publique and resumes the investigation at the point where he left it.

As a rule, a child recognised as vicious, corrupt, and incorrigible is ripe for the House of Correction. In agreement with the public prosecutor and his officers, the examining magistrate closes his inquiry and sends the minor before the Court of Correction, which acquits him as having acted *without discernment*, but at the same time orders that he is to be committed, up to a time approaching his majority, to a House of Correction.

It sometimes happens that wholesome intervention and wise counsels during the whole period of investigation have transformed the child when he appears before the Court; and occasionally one sees the magistrates definitely acquitting a minor when a Society of Patronage or any thoroughly trustworthy person intervenes to propose an advantageous disposal.

GERMANY

GERMAN CRIMINAL CODE

§ 55. No person can be prosecuted according to the criminal law under the age of twelve.

“Against such a person, however, the measures suitable for his improvement and supervision can be taken according to the regulations of the different States. In particular, such a person can be quartered in an institution for education and improvement after that the commission of the act has been proved, and such quartering declared admissible by decree of the official guardians.”

§ 56. “An accused person who has committed a criminal act at a time when he had completed his twelfth but not his eighteenth year is to be acquitted if at the time he committed such act he did not possess the intelligence necessary to the knowledge of its criminality.”

“(Note.—This is a question for the jury.)”

“The judgment must direct whether the accused shall be intrusted to his family, or be conveyed to an institution for education and improvement. In the institution he is to be detained so long as the administrative magistrate at the head of the institution considers such detention necessary; not, however, after he has completed his twentieth year.”¹

¹ Translated by Geoffrey Drage, B.A., 1885.

GESETZ ÜBER DIE FÜRSORGEERZIEHUNG MINDERJÄHRIGER VOM 2. JULI 1900¹

§ 1. Ein Minderjähriger, welcher das achtzehnte Lebensjahr noch nicht vollendet hat, kann der Fürsorgeerziehung überwiesen werden :

(1) wenn . . . die Fürsorgeerziehung erforderlich ist, um die Verwahrlosung des Minderjährigen zu verhüten ;

(2) wenn der Minderjährige eine strafbare Handlung begangen hat, wegen der er in Anbetracht seines jugendlichen Alters strafrechtlich nicht verfolgt werden kann und die Fürsorgeerziehung mit Rücksicht auf die Beschaffenheit der Handlung, die Persönlichkeit der Eltern oder sonstigen Erzieher und die übrigen Lebensverhältnisse zur Verhütung weiter sittlicher Verwahrlosung des Minderjährigen erforderlich ist ;

(3) wenn die Fürsorgeerziehung ausser diesen Fällen wegen Unzulänglichkeit der erziehlichen Einwirkung der Eltern oder sonstigen Erzieher oder der Schule zur Verhütung des völligen sittlichen Verderbens des Minderjährigen nothwendig ist.

§ 2. Die Fürsorgeerziehung erfolgt unter öffentlicher Aufsicht und auf öffentliche Kosten in einer geeigneten Familie oder in einer Erziehungs- oder Besserungsanstalt.

§ 3. Die Unterbringung zur Fürsorgeerziehung erfolgt, nachdem das Vormundschaftsgericht durch Beschluss das Vorhandensein der Voraussetzungen des § 1 unter Bezeichnung der für erwiesen erachteten Thatsachen festgestellt und die Unterbringung angeordnet hat.

§ 4.
Vor der Beschlussfassung soll das Vormundschaftsgericht, soweit dies ohne erhebliche Schwierigkeiten

¹ Statistik über die Fürsorgeerziehung Minderjähriger (Gesetz vom 2. Juli 1900) und über die Zwangserziehung Jugendlicher (§ 56 des Strafgesetzbuchs) für das Rechnungsjahr 1904 (1. April 1904 bis 31. März 1905). Bearbeitet im Königlich Preussischen Ministerium des Innern, Berlin. Druckerei der Strafaustaltsverwaltung, 1906.

geschehen kann, die Eltern, den gesetzlichen Vertreter des Minderjährigen und in allen Fällen den Gemeindevorstand, den zuständigen Geistlichen und den Leiter oder Lehrer der Schule, welche der Minderjährige besucht, hören; auch hat wenn die Beschlussfassung nicht auf Antrag erfolgt, das Vormundschaftsgericht zuvor dem Landrath unter Mittheilung der Akten Gelegenheit zu einer Aeusserung zu geben. . . .

§ 5. Bei Gefahr im Verzuge kann das Vormundschaftsgericht eine vorläufige Unterbringung des Minderjährigen anordnen. Die Polizeibehörde des Aufenthaltsorts hat in diesem Falle für die Unterbringung des Minderjährigen in einer Anstalt oder in einer geeigneten Familie zu sorgen.

§ 9. Die Ausführung der Fürsorgeerziehung liegt dem verpflichteten Kommunalverbände ob; er entscheidet darüber, in welcher Weise der Zögling untergebracht werden soll. . . . Der Kommunalverband hat dem Vormundschaftsgerichte von der Unterbringung und von der Entlassung des Zöglings Mittheilung zu machen.

Die Ueberführung des Zöglings liegt der Polizeibehörde des Aufenthaltsorts ob.

§ 10. . . . In Ausführung einer eingeleiteten Fürsorgeerziehung kann die Erziehung in der eigenen Familie des Zöglings unter Aufsicht des Kommunalverbandes widerruflich angeordnet werden.

§ 11. Für jeden in einer Familie untergebrachten Zögling ist zur Ueberwachung seiner Erziehung und Pflege von dem Kommunalverbände ein Fürsorger zu bestellen. Hierzu können auch Frauen bestellt werden.

§ 13. Die Fürsorgeerziehung endigt mit der Minderjährigkeit. Die frühere Aufhebung der Fürsorgeerziehung erfolgt durch Beschluss des Kommunalverbandes von Amtswegen oder auf Antrag der Eltern oder des gesetzlichen Vertreters des Minderjährigen, wenn der Zweck der Fürsorgeerziehung erreicht oder die Erreichung des Zweckes anderweit sicher gestellt ist. Die Aufhebung kann unter Vorbehalt des Widerrufs beschlossen werden. . . .

Ein abgewiesener Antrag darf vor dem Ablaufe von sechs Monaten nicht erneuert werden.

• § 14. Die Provinzialverbände . . . sind verpflichtet, die Unterbringung . . . in einer den Vorschriften dieses Gesetzes entsprechenden Weise zu bewirken. Sie haben für die Errichtung von Erziehungs- und Besserungsanstalten zu sorgen, soweit es an Gelegenheit fehlt, die Zöglinge in geeigneten Familien sowie in öffentlichen, kirchlichen oder privaten Anstalten unterzubringen, auch soweit nöthig für ein angemessenes Unterkommen bei der Beendigung der Fürsorgeerziehung zu sorgen.

§ 15. Die Kommunalverbände erhalten zu den von ihnen zu tragenden Kosten aus der Staatskasse einen Zuschuss in Höhe von zwei Dritteln dieser Kosten. Der Betrag des Zuschusses wird jährlich auf Liquidation der im Vorjahr aufgewendeten Kosten oder im Einverständnisse mit den einzelnen Kommunalverbänden periodisch als Bauschsumme von dem Minister des Innern festgesetzt.

§ 23. Dieses Gesetz tritt mit dem 1. April 1901 in Kraft.

AUSFÜHRUNGSBESTIMMUNGEN

Das Fürsorgeerziehungsgesetz ist eine Erweiterung des Gesetzes vom 13. März 1878. . . . Das neue Gesetz verfolgt denselben Zweck wie das alte: gesetzliche Grundlagen zu schaffen, um der Verwahrlosung jugendlicher Personen und ihrem Verfall in Verbrechen vorzubeugen oder verwahrloste und verbrecherische Jugendliche vor weiterem oder völligem sittlichen Verderben zu bewahren. Die Fürsorgeerziehung auf Grund dieses Gesetzes ist nur eine der mannigfachen gesetzlichen und Verwaltungsmassregeln zur Sicherung einer geordneten Erziehung Jugendlicher. Sie greift so tief in das Verhältniss des Jugendlichen zu seinen Eltern und seiner Familie ein, dass sie in vielen Fällen eine vollständige Loslösung von der Familie zur Folge hat; sie soll daher nur zu Anwendung kommen, wenn alle anderen zur Verfügung stehenden

Massregeln, eine geordnete Erziehung, herbeizuführen versagen. . . .

I. Die Ueberweisung zur Fürsorgeerziehung ist zulässig gegen Minderjährige bis zum vollendeten 18. Lebensjahre:

1. wenn Kinder, die unter elterlicher Gewalt stehen, durch schuldhaftes Verhalten der Eltern in Gefahr gerathen, zu verwahrlosen.

Ein schuldhaftes Verhalten liegt vor, wenn das geistig oder leibliche Wohl des Kindes dadurch gefährdet wird, dass der Vater, oder die Mutter . . . das Recht der Sorge für die Person des Kindes missbraucht, das Kind vernachlässigt oder sich eines ehrlosen oder unsittlichen Verhaltens schuldig macht;

— 2. wenn bei bevormundeten Minderjährigen die Fürsorgeerziehung zur Verhütung der Verwahrlosung nothwendig ist;

3. wenn Minderjährige, auch ohne dass ein Verschulden der Eltern vorliegt, verwahrlosen und die erzieherische Einwirkung der Eltern oder sonstigen Erzieher oder der Schule nicht ausreichen, um ein völliges sittliches Verderben des Minderjährigen zu verhüten.

Da unter Verwahrlosung nicht nur die sittliche, sondern auch die geistige und körperliche zu verstehen ist, so gehören unter die Nr. 1 alle die Fälle, in denen Eltern ihre Kinder misshandeln, ihnen die körperliche Pflege versagen, sie zu überanstrengenden, der leiblichen und geistigen Entwicklung schädlichen Arbeiten zwingen, sie in einer die Zwecke der Schule gefährdenden Weise vom Schulbesuche abhalten, oder sie vom Verkehr mit verbrecherischen Personen und der Begehung von Straftaten nicht abhalten. Das Gleiche gilt, wenn der Vater oder die Mutter der Trunksucht, Landstreicherei, Bettelei, des gewohnheitsmässigen Diebstahls, der Gewerbsunzucht, Kupperei oder eines anderen ehrlosen Verhaltens sich schuldig machen. Für Nr. 3 werden besonders die Minderjährigen in Frage kommen, die sich der Aufsicht der Eltern und Erzieher entziehen oder widersetzen, gegen deren

Willen, in schlechter Gesellschaft sich bewegen, wo sie Anreizung zu lüderlichem Leben und zur Begehung von Straftthaten finden. . . .

II. Die nachgeordneten Polizei- und Gemeindeorgane, die Waisenräthe und Armenpfleger sind anzuweisen, den zur Stellung des Antrages verpflichteten Behörden alle die Fälle zur Kenntniss zu bringen, in denen Kinder von Eltern und Erziehern misshandelt, vernachlässigt oder körperlich oder geistig verwahrlost werden, wenn Minderjährige eine strafbare Handlung begangen haben oder sich einem ungeordneten, lüderlichen Lebenswandel ergeben, dem zu wehren die Kirche, die Schule, und das Elternhaus machtlos sind. Ganz besonders sind Geistliche, Aerzte, und Lehrer berufen, da, wo ihnen auf Grund dieses Gesetzes die Anordnung der Fürsorgeerziehung nothwendig erscheint, die geeigneten Anträge zu stellen.

Es ist dahin zu wirken, dass bei den Anzeigen und Mittheilungen die den Antrag begründenden Thatfachen bestimmt bezeichnet und, soweit möglich, die erforderlichen Beweismittel und Zeugen angegeben werden. Die Anzeigen und Mittheilungen sind rechtzeitig, d. h. nicht erst bei vorgeschrittener, sondern schon bei beginnender Verwahrlosung zu machen, weil dann die Fürsorgeerziehung am meisten Aussicht auf Erfolg hat.

Die Vorsteher der Gefängnisse, in denen jugendliche Verurtheilte ihre Strafe verbüssen, haben mit der Konferenz der Oberbeamten, zu denen der Geistliche, der Arzt, und der Lehrer gehören, oder, wo solche Konferenzen nicht bestehen, mit dem Anstalts-geistlichen und Lehrer zu erörtern, ob die Fürsorgeerziehung für einen Jugendlichen nach verbüsseter Strafe nothwendig erscheint. Bejahendenfalls ist der Konferenzbeschluss . . . so rechtzeitig mitzutheilen, dass womöglich das Verfahren vor Ablauf der Strafe beendet sein und die Unterbringung zur Fürsorge sich unmittelbar an die Verbüßung der Strafe anschliessen kann. . . . Werden Minderjährige vor vollendeten achtzehnten Lebensjahre . . . der Landespolizeibehörde überwiesen, so haben die Regierungspräsidenten die zuständigen

Behörden anzuweisen, den Antrag auf Fürsorgeerziehung zu stellen, wenn in anderer Weise die Unterbringung des Minderjährigen in einer Erziehungs- oder Besserungsanstalt oder in einem Asyle nicht sicher gestellt werden kann.

NOTE.—(Durch die Ueberweisung erhält die Landespolizeibehörde die Befugniss, die verurtheilte Person bis zu zwei Jahren entweder in ein Arbeitshaus unterzubringen oder zu gemeinnützigen Arbeiten zu verwenden. Die Landespolizeibehörde kann die verurtheilte Person statt in ein Arbeitshaus in eine Besserungs- oder Erziehungsanstalt oder ein Asyl unterbringen; die Unterbringung in ein Arbeitshaus ist unzulässig, falls die verurtheilte Person zur Zeit der Verurtheilung das achtzehnte Lebensjahr noch nicht vollendet hat.

Bei der Verurtheilung zur Haft kann zugleich erkannt werden, dass die verurtheilte Person nach verbüsster Strafe der Landespolizeibehörde zu überweisen sei.

Mit Haft wird bestraft:

3. wer als Landstreicher umherzieht;

4. wer bettelt oder Kinder zum Betteln anleitet oder ausschickt, oder Personen, welche seiner Gewalt und Aufsicht untergeben sind und zu seiner Hausgenossenschaft gehören, vom Betteln abzuhalten unterlässt;

5. wer sich dem Spiel, Trunk oder Müssiggang dergestalt hingiebt, dass er in einen Zustand geräth, in welchem er zu seinem Unterhalte oder zum Unterhalte derjenigen, zu deren Ernährung er verpflichtet ist, durch Vermittelung der Behörde fremde Hülfe in Anspruch genommen werden muss;

8. wer nach Verlust seines bisherigen Unterkommens binnen der ihm von der zuständigen Behörde bestimmten Frist sich kein anderweitiges Unterkommen verschafft hat und auch nicht nachweisen kann, dass er solches der von ihm angewandten Bemühungen ungeachtet, nicht vermocht habe.)

Der Landrath hat, sobald ihm der Beschluss des Vormundschaftsgerichts auf Ueberweisung zur Fürsorge-

erziehung zugestellt ist, dem Landesdirektor des zur Unterbringung verpflichteten Kommunalverbandes unverzüglich eine Mittheilung über die persönlichen, häuslichen und wirtschaftlichen Verhältnisse des Ueberwiesenen zu machen, worin er sich zugleich gutachtlich darüber äussert, ob die Unterbringung in einer Familie oder in einer Anstalt zweckmässiger erscheint.

IV. Die Ueberführung des Zöglings in die von dem Kommunalverbände zu seiner Aufnahme bestimmte Familie oder Anstalt hat die Polizeibehörde des Aufenthaltsorts zu veranlassen. Die Begleiter sind mit besonderer Sorgfalt auszuwählen. . . .

V. Die Ausführung der Fürsorgeerziehung liegt wie bisher den Kommunalverbänden ob; sie bestimmen darüber, ob der Zögling in einer Familie oder in einer Erziehungsanstalt untergebracht werden soll und führen über ihn die Aufsicht bis zur Beendigung der Fürsorgeerziehung. Bei der Fürsorgeerziehung ist das Hauptaugenmerk darauf zu richten, dass die Zöglinge, der Verwahrlosung entnommen, zu religiös-sittlichen Menschen erzogen und zu brauchbaren Arbeitern, vorzugsweise für die Landwirtschaft ausgebildet werden.

(a) So lange die Zwecke der Fürsorgeerziehung durch Unterbringung in einer Familie nur irgend erreicht werden können, ist dieser der Vorzug zu geben. Sie wird von vornherein zur Anwendung zu bringen sein, wenn der Zögling das schulpflichtige Alter noch nicht überschritten hat und ein erhebliches sittliches Verderbniss nicht vorliegt, oder nach voraufgegangener Anstaltserziehung, wenn der Zögling durch sie an Zucht und Ordnung gewöhnt, körperlich, geistig und sittlich gekräftigt ist. Bei der Auswahl der Familien ist in erster Linie darauf zu sehen, dass sie für eine ernst religiös-sittliche Erziehung der Zöglinge Gewähr bieten. . . . Familien, die auf dem Lande oder in kleinen Städten wohnen und den Zöglingen Gelegenheit bieten, sich mit Land- und Gartenarbeit zu beschäftigen, sind besonders zu bevorzugen. Von Familien, die in grossen Städten oder dicht bevölkerten Industrie-

bezirken wohnen, wird möglichst abgesehen sein. Die Familie muss dem religiösen Bekenntnisse des Zöglings angehören. Bei nicht mehr schulpflichtigen Kindern kann von dieser Bestimmung ausnahmsweise abgesehen werden, wenn eine geeignete Familie ihres Bekenntnisses überhaupt nicht oder nur an solchen Orten gefunden werden kann, wo die Beaufsichtigung des Zöglings besondere Schwierigkeiten bietet. Dann ist jedoch die regelmässige Theilnahme des Zöglings am Gottesdienste seines Bekenntnisses sicher zu stellen.

Mit dem Familienhaupte ist über die Aufnahme des Zöglings ein Vertrag abzuschliessen, in welchem sich derselbe verpflichtet, den Zögling in seinen Familienkreis aufzunehmen, ihn in religiös-sittlichen Sinne zu erziehen, zum regelmässigen Besuche des Gottesdienstes und der Schule und Anfertigung der in der Schule gegebenen Aufgaben, sowie zur Ordnung, Reinlichkeit und Arbeitsamkeit anzuhalten, ihm eine angemessene Unterkunft mit besonderem Bett, gesunde, ausreichende Beköstigung, den Verhältnissen angemessene, reinliche Kleidung, in Krankheitsfällen Pflege und ärztliche Hülfe zu gewähren, ihn zu den für sein Alter und Geschlecht passenden häuslichen und ländlichen Arbeiten anzuleiten und zu verwenden, soweit dies ohne Schädigung der Gesundheit des Zöglings und des Schulunterrichts geschehen kann. Die Verwendung des Zöglings in Fabriken und ähnlichen Betrieben ist zu untersagen, bei der Hausindustrie nur mit Genehmigung des Fürsorgers zuzulassen.

Es ist möglichst darauf zu sehen, dass die Familie dem bisherigen Aufenthaltsorte des Zöglings nicht zu nahe wohnt und dass nicht mehrere Zöglinge in derselben Familie untergebracht werden. . . .

Auch die Unterbringung des Zöglings in der eigenen Familie ist zulässig. Vorbedingung dafür ist, dass die Erziehung in einer fremden Familie oder in einer Anstalt den Zögling sittlich gebessert hat und dass die Verhältnisse der eigenen Familie, durch welche die Verwahrlosung des Zöglings verschuldet ist, beseitigt sind, etwa durch Ver-

besserung der wirtschaftlichen Lage, durch Ausscheiden des schuldigen Elterntheils, durch Verziehen der Familie in eine andere sozial gesündere Umgebung. Durch diese Massregel wird die Fürsorgeerziehung nicht aufgehoben, der Zögling untersteht der vom Kommunalverbande angeordneten Aufsicht und kann der Familie jederzeit genommen und anderweit untergebracht werden, wenn sie sich ungeeignet erweist. . . .

• (b) Die Unterbringung in Anstalten erscheint vorzugsweise angebracht für Minderjährige, die zu geschlechtlichen Ausschweifungen, zum Landstreichen und Verbrechen neigen, oder in anderer Weise sittlich verwahrlost sind, sowie solche, deren körperlicher Zustand eine besondere Pflege unter ärztlicher Aufsicht erfordert. Die Zöglinge sollen aber in der Anstalt nur so lange bleiben, als unbedingt notwendig ist, um sie an Zucht und Ordnung zu gewöhnen, leiblich und geistig zu kräftigen. Sobald dieser körperliche und sittliche Reinigungsprozess beendet ist, sind sie in Familien, wenn möglich unter Aufsicht des Anstaltsvorstehers, der ihren Charakter kennt, unterzubringen, die Schulpflichtigen in Pflege, die Schulentlassenen in Gesindedienst oder als Lehrlinge. Führen sie sich schlecht oder erweist sich die Familie als ungeeignet, so sind sie in die Anstalt zurückzunehmen, um geeigneten Falles nach einiger Zeit einen erneuten Versuch mit der Familienerziehung zu machen. . . . Die Anstalten müssen durch ihre Lage, baulichen und gesundheitlichen Einrichtungen und die Gelegenheit, die Zöglinge mit Feld-, Garten-, Haus-, und anderen geeigneten Arbeiten ausserhalb der Unterrichtsstunden zu beschäftigen, den besonderen Anforderungen der Fürsorgeerziehung entsprechen und den Zöglingen einen ausreichenden, den Vorschriften für die Volksschule gemässen Unterricht gewähren. Die Anstalten sollen nicht zu klein sein, weil dann die wirtschaftliche Lage meist nicht gestattet, einen pädagogisch geschulten Leiter an die Spitze zu stellen und einen ausreichenden Schulunterricht einzurichten, und nicht zu gross, weil dann der Leiter nicht im Stande ist, die

Eigenart jedes Zöglings genau kennen zu lernen und ihn dementsprechend zu behandeln. Erfahrungsgemäss ist für nicht öffentliche Anstalten die Einrichtung für 50-100 Zöglinge die zweckmässigste. . . . Von der Benutzung solcher Anstalten, die in Mitten grosser Städte oder industrieller Bezirke liegen, wird möglichst abzusehen sein. . . . Für die den Kommunalverbänden gehörenden Anstalten wird es sich empfehlen, sie auf eine Zahl von 80-200 Zöglingen konfessionel . . . einzurichten. Als Leiter der für männliche Zöglinge bestimmten Anstalt ist ein pädagogisch gebildeter Geistlicher oder im öffentlichen Schuldienste bewährter Lehrer zu wählen, dem die erforderliche Zahl von Lehrern und Führern beizugeben ist, um unter den Zöglingen zur besseren Uebersicht und Erziehung verschiedene Abteilungen bilden zu können. Ein ausreichendes Gelände, um darauf die Zöglinge mit Garten-, Feldarbeit und Viehwartung zu beschäftigen, einige Werkstätten, um männliche Zöglinge in Handfertigkeiten, welche für ihr späteres Fortkommen von Werth sind, durch fachkundige Beamte unterweisen zu lassen, dürfen nicht fehlen. . . . Die Anstalten müssen den schulpflichtigen Zöglingen den vorschriftsmässigen Volksschulunterricht gewähren. Die Schulentlassenen sind in den Zeiten, wo sie nicht mit Arbeiten in der Haus- und Feldwirtschaft beschäftigt werden, in den Unterrichtsgegenständen der Volksschule weiter zu fördern. . . .

VI. Vor Ablauf des schulpflichtigen Alters ist rechtzeitig für eine den Fähigkeiten und Verhältnissen des Zöglings passende und thunlichst seinen Wünschen entsprechende Dienst- oder Lehrstelle zu sorgen.

Als Dienst- oder Lehrherren sollen nur durchaus zuverlässige und tüchtige Personen ausgewählt werden. Bei etwa abzuschliessenden Lehrverträgen ist die tüchtige Ausbildung im Handwerk innerhalb einer bestimmten Zeit sicher zu stellen. . . .

VII. Für jeden in einer Familie, untergebrachten Zögling ist von dem verpflichteten Kommunalverbande ein Fürsorger zu bestellen, dessen Aufgabe es ist, sowohl

die Führung als auch die Erziehung und Behandlung der ihnen zugewiesenen Zöglinge zu überwachen.

Die noch nicht schulentlassenen Zöglinge hat er von Zeit zu Zeit persönlich in der Familie aufzusuchen, sich von der Art der Unterkunft, Verpflegung, Erziehung, Beschäftigung zu überzeugen, durch Benehmen mit dem Ortsgeistlichen und der Schulbehörde sich zu vergewissern, das Schul- und Kirchenbesuch regelmässig ist und die vertraglichen Bestimmungen gewissenhaft erfüllt werden und für Abstellung etwaiger Mängel zu sorgen.

Bei den in Dienst oder Lehre stehenden hat er darauf zu halten, dass der Verdienst der Zöglinge in angemessener Weise verwendet und ein Theil desselben auf der Sparkasse belegt wird. Halbjährlich hat der Fürsorger an den vom Kommunalverbande bezeichneten Beamten über seine Wahrnehmungen kurz zu berichten. . . .

Der Fürsorger ist so zu wählen, dass er am Orte selbst, wo der Zögling untergebracht ist, oder doch so nahe wohnt, dass die persönliche Aufsicht nicht erschwert wird und dass er, wenn irgend möglich, dem religiösen Bekenntnisse des Zöglings angehört. Um die Uebernahme des Amtes sind in erster Linie die zuständigen Ortsgeistlichen, Lehrer, Mitglieder von Waisenräthen oder Erziehungsvereinen zu ersuchen; andere geeignete Persönlichkeiten sind mit Hülfe der Geistlichen und Gemeindevorstände zu ermitteln.

VIII. Das Amt des Fürsorgers ist ein Ehrenamt, nothwendige baare Auslagen werden erstattet. Der Vorstand einer unter Verwaltung des Kommunalverbandes stehenden Erziehungsanstalt übt . . . ohne Weiteres die Rechte und Pflichten eines Vormundes über die Anstaltszöglinge aus; der Vorstand einer kirchlichen oder Privatanstalt kann ebenfalls auf Antrag des Kommunalverbandes zum Vormunde der Zöglinge bestellt werden. In beiden Fällen darf dem Vormund dieses Amt auch über die Zeit der Entlassung des Zöglings aus der Fürsorgeerziehung bis zu dessen Volljährigkeit belassen werden.

IX. Die Fürsorgeerziehung endigt mit der Minderjährig-

keit. . . . Die Entlassung erfolgt endgültig oder auf Widerruf. Die Erstere soll nur dann statthaben, wenn der Zögling in vollständig gesicherte Verhältnisse eingetreten ist, welche eine abermalige Verwahrlosung so gut als ausgeschlossen erscheinen lassen. Die Aufhebung der Fürsorgeerziehung unter Vorbehalt des Widerrufs soll erfolgen, wenn die Führung des Zöglings und die Verhältnisse, in welche er eintritt, zur Zeit die Aufhebung rechtfertigen, es aber zweifelhaft erscheint, ob beide von Dauer sein werden.

Die Aufhebung der Fürsorgeerziehung auf Widerruf ist an die Bedingung zu knüpfen, dass sich der Minderjährige der vom Kommunalverbande über ihn angeordneten Aufsicht unterstellt. Entzieht er sich dieser Aufsicht oder lassen seine Führung und Lebensverhältnisse eine abermalige Verwahrlosung befürchten, so ist er in die Fürsorgeerziehung zurückzunehmen. Die Ueberwachung des Minderjährigen wird am zweckmässigsten dem bisherigen Fürsorger übertragen, sie darf nicht durch polizeiliche Organe ausgeübt werden.

VORBERICHT, §. XXXVIII. XXXIX.

Die Klagen über die Schwierigkeiten, welche die erziehliche Behandlung der älteren, sittlich und sozial verdorbenen Zöglinge bereitet, werden von allen Seiten wiederholt. . . . eine Frage ist, ob wir mit der Behandlung dieser älteren Zöglinge auf dem richtigen Wege sind. Es ist einmal gesagt worden: "Das Buch der Pädagogik für diese Zöglinge solle erst noch geschrieben werden," und man könnte hinzufügen "die Praxis in der Behandlung dieser Jugendlichen soll erst gelernt sein." Wir beschäftigen uns mit diesen Elementen erst seit vier Jahren, ob unsere jetzige Methode der Behandlung richtig ist, die sich wesentlich anlehnt an die Behandlung der Kinder, und wo diese versagt, zu Mitteln greift, die an das Gefängnis und Korrekthaus erinnern; ob es richtig ist, auch bei den älteren Zöglingen die freie Bewegung

- auf das Engste zu beschränken, Zöglinge, die aus industriellen Kreisen stammen und nach erreichter Volljährigkeit dahin zurückkehren, in ländliche Verhältnisse und zu ländlicher Arbeit zu zwingen, mag dahin gestellt sein. Jedenfalls sind die Versuche, diesen Zöglingen eine gewisse Freiheit der Bewegung in der Erlangung und Auswahl ihrer Arbeit zu gewähren, sie nicht in Familien unterzubringen, sondern ihnen Unterkunft in Jugend- Lehrlings- oder Gesellenheimen zu sichern, die ganze Aufsicht über sie mehr vormundschaftlich als erziehlich zu gestalten, der Beachtung wert.

VORBERICHT (APPENDIX TO CHAPTER XI.), S. XXXIV.

- In der erziehlichen Behandlung der Fürsorgezöglinge hat sich ergeben, dass bei diesen Jugendlichen von sechzehn Jahren aufwärts und auch schon früher eine verbrecherische Beharrlichkeit vorhanden ist, wie man sie nur bei alten
- erfahrenen Verbrechern findet. Mit List, und wenn das nicht gelingt, mit roher Gewalt, die vor Mord und Totschlag nicht zurückschreckt, suchen sie der Erziehung zu entfliehen. "Lieber Sträfling als Zögling," kann man oft aus ihrem Munde hören. Die im Gefängnis gewesen sind, halten das nicht für eine Schande, sie glauben dadurch aus Kindern Männer geworden zu sein. Die Behandlung als Zögling beleidigt ihre Grossmannssucht. Das drängt darauf hin, auch im Strafrecht Jugendliche nicht zu behandeln wie Erwachsene; den verhängnisvollen
 - Zug der Frühreife, der durch unsere gesamte heutige Jugend geht und den wir durch Gesetz und Sitte gefördert haben, wenigstens auf dem Gebiete des Strafrechts zurückzudrängen. Man wird der Einrichtung besonderer Jugendgerichtshöfe, eines besonderen von dem für Erwachsene verschiedenen Verfahrens, bei dem vor allem die Öffentlichkeit ausgeschlossen und nur die gesetzlichen Vertreter des Kindes und die Auskunftspersonen, welche
 - das Gesetz bestimmt oder der Gerichtshof auswählt, zugelassen werden dürfen, näher treten müssen. Der

Jugendliche darf nicht das Recht haben sich selbst zu vertreten, es soll ihm aus der ganzen Verhandlung klar werden, dass er kein selbständiger, sondern ein bevormundeter Mensch ist. Solche Gerichtshöfe sind in den Vereinigten Staaten von Amerika, in Canada, in Australien eingerichtet und haben sich bewährt.

TRANSLATION

LAW OF JULY 2, 1900, FOR THE GUARDIANSHIP- EDUCATION OF MINORS

§ 1. A minor who has not yet completed his eighteenth year can be consigned to Guardianship-Education (literally "Upbringing under Care"):

(1) When Guardianship-Education is necessary to guard against the abandonment of the minor.

(2) When the minor has committed a punishable offence for which on account of his youth he cannot be penally prosecuted, and, taking into consideration the nature of the act, the personality of the parents or other persons responsible for his upbringing, and the other circumstances of his life, Guardianship-Education is necessary to prevent further moral abandonment.

(3) When, in addition to the above cases, Guardianship Education, on account of the inadequacy of the educational influence of the parents or other persons responsible for his upbringing, or of the school, is necessary to prevent the complete moral ruin of the minor.

§ 2. Guardianship Education is carried out under public control and at public expense, in a suitable family or in an educational institution or Reformatory.

§ 3. Disposal for Guardianship-Education ensues when the Court of Guardianship has by its decision established the existence of the hypotheses of Section 1 by designating

the facts held to be proved, and has given orders for such disposal.

§ 4. . . . Before making a decision the Court of Guardianship shall, in so far as it can be managed without serious difficulty, hear the parents, the legal representative of the minor, and in all cases the parochial authorities, the clergyman of the district, and the manager or master of the school attended by the minor; if the decision does not result in a proposal, the Court of Guardianship must also communicate the proceedings to the Landrath (= sheriff, lieutenant of a county), and give him an opportunity of expressing an opinion. . . .

§ 5. When there is danger in delay the Court of Guardianship can order the temporary disposal of the minor. In this case the police authorities of his domicile have to see to the disposal of the minor in an institution or in a suitable family.

§ 9. The carrying out of Guardianship-Education devolves upon the responsible local authorities ("Communal Associations"), who decide as to the manner of the disposal of the minor. . . . The local authorities must communicate the disposal and discharge of the pupil to the Court of Guardianship. The transfer of the pupil devolves upon the police authorities of his domicile.

§ 10. For the carrying out of a Guardianship-Education already begun, upbringing in the pupil's own family under surveillance of the local authorities can be directed, subject to revocation.

§ 11. For every pupil placed in a family the local authorities must appoint a "Fürsorger" (= probation-officer), for the supervision of his upbringing and treatment. Women too are eligible for these appointments.

§ 13. Guardianship-Education ends with the attainment of majority.

Earlier discharge from Guardianship-Education follows a decision of the local authorities, on official initiative, or on appeal of the parents or legal representative of the minor, when the purpose of Guardianship-Education has

been attained, or the attainment of its purpose by other methods assured. Discharge can be determined with the reservation that it is revocable. . . . An appeal that has been dismissed cannot be renewed before six months have elapsed.

§ 14. The provincial authorities . . . are responsible for effecting the disposal of the minor in a manner conformable to the provisions of this Law. They must see to the erection of educational institutions and Reformatories in so far as opportunity is lacking for placing the pupils in suitable families, or in public, church, or private institutions; they must also, in so far as is necessary, provide for suitable employment and lodging on the termination of Guardianship-Education.

§ 15. The local authorities receive from the Public Exchequer a contribution to the expenses borne by them to the amount of two-thirds of these expenses. The amount of the contribution is settled annually on the liquidation of the sum expended in the previous year, or periodically settled as a lump sum by the Minister of the Interior in agreement with the individual local authorities.

§ 23. This law comes into force April 1, 1901.

INSTRUCTIONS FOR CARRYING OUT THE LAW

The Law for Guardianship-Education is an extension of the Law of March 13, 1878. . . . The new Law pursues the same aim as the old: the creation of principles resting on Law, for the prevention of the abandonment of young persons, and to prevent their falling into crime, or to preserve abandoned or criminal juveniles from further or complete moral ruin. The Guardianship-Education based upon this Law is only one of the manifold legal and administrative measures for securing the well-regulated upbringing of the young. It intervenes with such force in the relations of the child to his parents and family that in many cases its consequence is complete alienation from the family. Recourse therefore should only be had to it

when all other means at disposal for securing a well-regulated upbringing fail. . . .

I. Minors may be handed over to Guardianship-Education up to the completion of their eighteenth year :

1. When children under parental authority, owing to the guilty conduct of their parents, are in danger of becoming abandoned.

Guilty conduct exists when the spiritual or bodily welfare of the child is endangered, by the father or mother . . . misusing the right of solicitude for its person, neglecting it, or when they are guilty of discreditable or immoral behaviour.

2. When Guardianship-Education is necessary to prevent the abandonment of a minor in the care of a guardian.

3. When minors without any fault of the parents become abandoned, and the influence of the parents or other persons responsible for their upbringing, or that of the school, is not sufficient to prevent complete moral ruin.

As by "abandonment" not alone moral but also mental and material abandonment is to be understood, under No. 1 are comprised all cases in which parents ill-treat their children, give no attention to their bodies, constrain them to labour requiring over-exertion and deleterious to their physical and mental development, keep them from school in a way which endangers the attainment of the aims of the school or fail to prevent them from associating with criminals and from committing punishable acts. Similarly when the father or mother is guilty of drunkenness, vagrancy, begging, habitual thieving, prostitution, procreation, or any other dishonourable conduct. Under No. 3 those minors are especially denoted who withdraw themselves from or resist the supervision of parents and teachers, and against their wish frequent bad company in which they are incited to profligacy and the commission of punishable offences. . . .

II. The subordinate police and parish authorities, the Guardians of the Poor and of Orphans, are to be directed

to bring to the knowledge of the authorities whose duty it is to move in the matter all cases in which children are ill-treated, neglected, or 'bodily or mentally abandoned by parents and persons responsible for their upbringing, or in which minors have committed a punishable offence, or taken to an irregular, dissolute life which the influence of church, school, and home is powerless to check. Clergymen, doctors, and teachers are specially called upon, when on the strength of this Law the application of Guardianship-Education appears necessary, duly to notify the case.

It must be endeavoured that when notification is made and information lodged the facts on which the proceedings are grounded be specified exactly, and in so far as possible that the requisite means of proof and witnesses be indicated. Notification must be made and information lodged in good time, *i.e.* when abandonment is not already advanced but at its commencement, as Guardianship-Education then has most prospect of success.

The governors of prisons in which convicted juveniles are undergoing punishment must discuss with the Board of senior officials, to which the chaplain, doctor, and schoolmaster belong, or where such Boards do not exist, with the chaplain and schoolmaster of the institution, whether Guardianship-Education on the completion of punishment appears necessary. When the decision is affirmative, it must be communicated in good time, so that when possible the proceedings may be ended before the expiration of the sentence, and the disposal for Guardianship follow immediately on the completion of punishment. . . .

When minors are placed under the surveillance of the police before the completion of their eighteenth year, the presidents of the provincial councils must direct the authorities of the locality to move the adoption of Guardianship-Education, when the commitment of the minor to an educational establishment, Reformatory, or asylum cannot be assured in any other way.

NOTE.—(When a person is placed under the surveillance of the police, the authorities are empowered to commit him for two years to a workhouse or employ him on works of public utility. The police, in lieu of committing the convicted person to a workhouse, may commit him to a Reformatory, educational establishment, or asylum; commitment to a workhouse is inadmissible if at the time of conviction the condemned person has not completed his eighteenth year.

At the time of condemnation to (simple) imprisonment it may be decreed that the condemned person shall, on completion of sentence, be placed under surveillance of the police.

With (simple) imprisonment is punished :

3. Whoever wanders about as a vagrant ;

4. Whoever begs, or induces or sends out children to beg, or fails to restrain from begging persons under his authority and care, or living in his house ;

5. Whoever is so addicted to gambling, drink, or idleness that he gets into a condition in which, for his own support or the support of those dependent on him, he must, through the medium of the authorities, lay claim to extraneous help ;

8. Whoever after the loss of his previous means of subsistence has not, within the time prescribed by the proper authorities, obtained other means of subsistence, and cannot demonstrate that he has been unable to do so in spite of efforts to that end.)

As soon as the Landrath is notified of the decision of the Court of Guardianship respecting commitment to Guardianship-Education, he must without delay make a communication to the Landesdirektor of the responsible local Board concerning the personal, domestic, and economic circumstances of the person committed, and at the same time state authoritatively whether consignment to a family or to an institution appears to him more appropriate. . . .

IV. The transfer of the pupil to the family or

institution appointed for his reception must be arranged by the police authorities of his domicile. His escort must be selected with especial care. . . .

V. The putting into execution of Guardianship-Education devolves as hitherto upon the local authorities; they decide whether the pupil shall be consigned to a family or to an educational establishment, and exercise supervision over him until the Guardianship-Education is at an end. In Guardianship-Education the chief end to be kept in view is that the pupils, rescued from abandonment, should be brought up to be religious and moral beings, and trained as useful workers, preferably for agricultural pursuits.

(a) As long as the aims of Guardianship-Education can at all be attained by consignment to a family, this is to be preferred. Recourse will be had to this from the outset when the pupil has not passed the age of school attendance and there is no serious moral depravity; or after preliminary training in an institution, which has accustomed the pupil to decency and order, and strengthened him in body, mind, and morals. In the choice of families the greatest regard must be had to their offering security for the serious religious and moral upbringing of the pupils. . . . Families which live in the country or in small towns and offer the pupils the opportunity of occupying themselves with field and garden work are especially to be preferred. Families which live in large towns or thickly-populated industrial districts are as far as possible to be avoided. The family must belong to the same religious denomination as the pupil. In the case of children no longer attending school this regulation may, as an exception, be disregarded when a suitable family of the same denomination cannot be found at all, or can only be found in such places as offer especial difficulties, as to the supervision of the pupil. In this case, however, the regular attendance of the pupil at the divine service of his own denomination must be assured. *

A contract is to be entered into with the head of the

family with regard to the reception of the pupil, by which he shall bind himself to receive the pupil into his family circle, to bring him up religiously and morally, to make him regular in attendance at church and school and in the preparation of his school tasks, as well as to insist on order, cleanliness, and industry, to give him appropriate accommodation with a separate bed, wholesome and sufficient food, clothing appropriate to his circumstances and clean, in case of illness nursing and medical attendance, to instruct and employ him in the domestic and field work suitable to his age and sex so far as this may be done without detriment to health and school education. The employment of the pupil in factories and similar works is forbidden, in domestic work only admissible with the consent of the *Vürsorger*.

As far as possible it must be seen to that the family does not live too near the pupil's previous residence, and that several pupils are not placed in the same family.

The consignment of the pupil to his own family is also admissible. A preliminary condition is that upbringing in another family or in an institution has effected the moral reformation of the pupil, and that the conditions in his own family to which his abandonment was due have been put an end to, either through improvement of the economic situation, by the departure of a guilty parent, or by the removal of the family to a different and more healthy social environment. These measures do not annul Guardianship-Education; the pupil is subject to the supervision enjoined by the local authorities, and may at any time be taken from his family if it prove unsuitable, and located elsewhere. . . .

(b) Consignment to institutions appears pre-eminently appropriate for minors inclined to licentiousness, vagrancy, and crime, or otherwise morally abandoned, as well as for those whose physical condition demands special care under medical superintendence. But the pupils must only remain in an institution so long as is absolutely necessary to ac-

custom them to decency and order, and strengthen them in body and mind. As soon as this process of physical and moral purification is accomplished, they are to be consigned to families, if possible under supervision of the head of the institution, who knows their character,—those who attend school in tutelage, those who have left school in domestic service or as apprentices. If they behave badly, or the family prove unsuitable, they are to be taken back to the institution, and after a time, when suitable occasion offers, a renewed attempt at upbringing in a family is to be made. . . .

The institutions must accord with the special demands of Guardianship-Education in situation, architectural and hygienic arrangements, and the opportunity provided for employing the pupils with field, garden, house, and other appropriate work outside the hours of instruction, and must secure to the pupils sufficient instruction, as prescribed in the Elementary Schools. The institutions must not be too small, as then the economic circumstances, as a rule, do not permit of placing a well-educated principal at the head, and of arranging for adequate school instruction, and not too big, as then the principal is not in a position to become accurately acquainted with the individual personality of each pupil and treat him accordingly. According to experience, an establishment, in the case of private institutions, for 50 to 100 pupils is most appropriate. . . .

The use of institutions situated in the middle of large towns or industrial districts is as much as possible to be avoided. . . .

It is advisable to establish the institutions belonging to the local authorities on a denominational basis for from 80 to 200 pupils. As principal of an institution for male pupils should be selected a clergyman with a scholastic training, or an approved schoolmaster in the public service, with such number of teachers and trainers as assistants as is necessary to form various divisions of pupils for their better supervision and education. There must not

•be wanting a sufficient tract of land to occupy the pupils with garden and field-work and the care of cattle, and some workshops, so that male pupils may be trained by skilled officials in manual industries of value to them in hereafter gaining a livelihood. . . .

•Institutions must provide pupils of school age with the regulation elementary school instruction. Those past the school age, when not occupied with domestic and field-work, are to be advanced in elementary education subjects. . . .

VI. Before the expiration of the age for school attendance, a situation in service or as apprentice, suitable to the capacity and circumstances of the pupil, and as much as possible in conformity with his wishes, is to be arranged for in good time.

Only thoroughly reliable and capable persons are to be selected as masters or employers. If contracts of apprenticeship are drawn up, a sound training in the trade within a certain period is to be guaranteed. . . .

•VII. For every pupil consigned to a family a *Fürsorger* (probation-officer) must be appointed by the responsible local authorities, whose task it is to supervise the conduct, upbringing, and treatment of the pupils committed to their care.

Pupils still attending school he must in person visit at the home, convince himself of the nature of the accommodation, food, upbringing, and occupation, by interviews with the clergy and school authorities of the place assure himself that school and church are regularly attended and that the conditions of the contract are conscientiously fulfilled, and must see to the putting right of any defects. . . .

In respect of those in service or apprenticeship, he must insist that proper use is made of the pupils' earnings, and a part placed in the savings bank. Twice a year the *Fürsorger* must make a report on the results of his investigations to the officials indicated by the local authorities. . . . The *Fürsorger* must be so selected that he lives either in, the very place where the pupil is

located, or so near that personal supervision is not difficult, and so that, if possible, he belongs to the same religious persuasion as the pupil. Competent clergymen of the place, teachers, members of boards of guardianship for orphans or educational societies are especially to be desired to undertake the office; other suitable persons may be found with the help of the clergy and parochial authorities. . . .

VIII. The office of *Fürsorger* is an honorary post; necessary disbursements will be refunded. The governing body of an educational institution under the control of the local authorities exercises . . . without further ado the rights and duties of a guardian over the pupils of the institution; the governing body of a church or private institution can equally, on the proposal of the local authorities, be appointed as guardian of the pupils. In both cases the guardian may continue to exercise this office after the discharge of the pupil from Guardianship-Education until he attains his majority.

IX. Guardianship-Education ends with the attainment of majority. . . .

Discharge is final or revocable. It shall only be final when the pupil has entered into completely assured circumstances such as appear to practically exclude a renewal of abandonment. The repeal of Guardianship-Education with the proviso of revocation shall ensue when the conduct of the pupil and the circumstances into which he enters at the time justify the repeal, but it appears doubtful whether both these things will be durable.

The revocable repeal of Guardianship-Education is to be united with the condition that the minor submit himself to the surveillance over him directed by the local authorities. If he withdraw himself from this surveillance, or if his conduct and conditions of life cause a renewal of abandonment to be feared, he is to be taken back to Guardianship-Education. The supervision of the minor will most appropriately be entrusted to his previous *Fürsorger*; it must not be exercised by police authorities.

PREFACE TO THE REPORT FOR 1904, PT. XXXVIII,
XXXIX

Complaints over the difficulties caused by the educational treatment of the older morally and socially depraved pupils are repeated on every side . . . it is a question whether we are on the right track as regards the treatment of these older pupils: "The handbook of educational science for these pupils has yet to be written," and one might add, "A practical method of dealing with these juveniles has yet to be learnt." It is only during the last four years that we have concerned ourselves with these elements, and it is a question whether our present method of treatment, which in substance resembles the treatment of children, and, when that fails, has recourse to measures which recall the prison and House of Correction, is the right one; a question whether it is right to impose the narrowest limits on the free movement of the older pupils, to constrain pupils who come from industrial circles, and, on attaining their majority, return to them, to rural conditions and rural labour. In any case, the attempts to give these pupils a certain freedom of movement in the choice and obtaining of their work, not to place them in families, but to secure their accommodation in youths', apprentices', or working-men's homes, to render the whole surveillance over them more that of a guardian than of an educator, are worth consideration.

PREFACE (APPENDIX TO CHAPTER XI.), P. XXXIV

In the educational treatment of the Guardianship pupils it has appeared that in these juveniles of sixteen years and upwards, and even earlier, a criminal persistency is present such as one finds only in old experienced criminals. By craft, and, when that fails, by rude violence, which does not shrink from murder and homicide, they seek escape

from the "Education." "Better a convict than a 'pupil,'" one hears often from their lips. Those who have been in prison think it no shame; they believe that by it they have from children become men. The treatment as pupils offends their ambition to be considered as men. This urges us in criminal jurisprudence also not to treat juveniles as adults; and at least in this realm to resist the fatal characteristic of precocity which penetrates our entire present-day youth, and which we have furthered by law and custom. We shall have to advance to the institution of special juvenile courts, of a special procedure differing from that used for adults, above all excluding publicity, and only admitting the legal representatives of the child and the persons appointed by law or selected by the Court to give information. The juvenile must not have the right to plead his own cause; the whole proceedings must make it clear to him that he is not an independent person, but under guardianship. Courts of this kind have been established in the U.S.A., in Canada, and in Australia, and have demonstrated their usefulness. e

STATISTICS OF GUARDIANSHIP-EDUCATION

From the three first years there remained on March 31, 1904, out of a total of 20,506, 20,064 pupils. Of these, 779 were discharged in the course of 1904:—

82 died.

6 were transferred to correctional education,
("Zwangserziehung").

370 were unconditionally discharged.

321 „ conditionally, „

779

27 of those discharged were recalled.

With regard to male pupils over sixteen years of age:—
Of 1541 of the years 1901 and 1902—

- 1310 had been previously punished.
- 117 showed evil tendencies.
- 114 were unpunished and "free from evil tendencies."

• 1541 .

• Of these youths 26 died and 362 were discharged :—

- 106 on reaching their majority.
- 85 as military recruits.
- 60 definitely, as a result of good conduct.
- 101 conditionally.
- 10 on other grounds.

362

The working of the Law up to March 31, 1905, *i.e.* during the first four years, showed that of male pupils over sixteen—

- 1075 had been placed in institutions.
- 905 still remained
- 58 had been originally placed in families as protégés, apprentices, or servants.
- 546 were in families on March 31, 1905.
- 96 " prison " "
- 212 had escaped from the operation of the Law.
- 8 were in hospitals, etc.

Of the worst group, youths with evil tendencies and a record of previous punishment, on the expiration of the four years 41·4 per cent were living in families.

- With regard to the time spent in institutions before transference to families, out of 832 lads—

- 123 were less than six months in an institution.
- 366 " " one year " "
- 307 " " two years " "
- 34 " " three " " "
- 2 " over three years " " . .

• 832

23 were transferred from families to institutions.

278 THE MAKING OF THE CRIMINAL 'A.P.

Of a total of 1153 youths actually under the operation of the Law on March 31, 1905, 204 or 17·7 per cent had in the course of their Guardianship-Education come under the notice of the Law and been punished; of these 161 after effecting their escape.

As to conduct, statistics are only obtainable in respect of 997 of the above. They are as follows:—

Improved . . .	249
Worse . . .	146
Very good, good, pretty good, satisfactory, fair . . .	785 or 78·7 per cent.
Unsatisfactory, bad . . .	212 „ 21·3 „
	<hr/>
	997 100·00

Of 106 pupils discharged on attainment of their twenty-first year the conduct was:—

Improved . . .	27
Worse . . .	14
Very good, etc. . . .	67 or 63·2 per cent.
Unsatisfactory, bad . . .	12 „ 11·3 „
Escaped or in prison . . .	27 „ 25·5 „
	<hr/>
	106 100·00 „

HOLLAND¹

DANS le Code civil on a introduit la *déchéance de la puissance paternelle*. . . . Par la loi nouvelle, la déchéance pourra être obtenue jusqu'à la majorité de l'enfant. Peuvent être déclarés déchus le père ou la mère ; 1° qui abusent de leur puissance paternelle ; 2° qui manquent gravement aux devoirs d'entretenir et d'élever leurs enfants ; 3° qui mènent une mauvaise conduite ; 4° qui sont condamnés, soit à une peine d'emprisonnement de deux ans ou plus, soit pour un crime ou délit commis de complicité avec un mineur soumis à leur autorité, soit pour un crime ou délit commis *envers* un mineur soumis à leur autorité. . . .

Une seconde institution est étroitement jointe à la déchéance : la *décharge* de la puissance paternelle. Celle-ci n'a pas un caractère infamant et ne peut être prononcée que si le père ou la mère ne s'y opposent pas. Mais les père ou mère n'ont pas la faculté de demander eux-mêmes leur décharge . . . La décharge est destinée à offrir un moyen pour procurer une meilleure éducation aux enfants des parents de bonne volonté, mais de forces insuffisantes ; et non pas pour débarrasser les parents nonchalants.

La déchéance et la décharge produisent l'une et l'autre un effet identique : la puissance du père ou de la mère cesse absolument. . . . Au lieu de nommer une personne,

¹ *Revue Pénitentiaire*. Nov.-Dec. 1905. Paris. Dr. J. A. van Hamel, "La Nouvelle Législation pour la Protection de l'Enfance en Hollande."

le tribunal pourra aussi déléguer la tutelle à une société privée qui s'est déclarée prête à recevoir le mineur. . . . Le Gouvernement peut subventionner les sociétés pour chaque enfant enlevé aux parents, selon une échelle déterminée. . . . Les Sociétés peuvent recevoir les enfants dans les établissements ou les faire élever chez des personnes privées. Elles ont tous les pouvoirs d'un tuteur, jusqu'à la majorité de l'enfant. Pour les pupilles intraitables elles peuvent obtenir le placement gratuit dans une maison d'éducation correctionnelle gouvernementale. . . . Malgré la déchéance ou la décharge, l'obligation alimentaire continue à reposer sur les parents. Le juge en prononçant sur la tutelle, fixera le montant de la pension qu'ils devront payer. Cette dette pourra être recouvrée par le conseil des tutelles sur les salaires du parent, en ce sens que le patron de celui-ci sera obligé de retenir la somme fixée par le juge, et cette somme sera payée directement au conseil des tutelles.

. . . Occupons-nous des innovations apportées dans la législation pénale. Mais constatons d'abord que le point de vue de la législation ne diffère pas intrinséquement selon que l'enfant a commis ou non un fait punissable. . . . En principe la loi place sur le même pied tous les enfants adolescents jusqu'à l'âge de *dix-huit ans* (majorité pénale). . . . L'âge qui limite l'application des mesures spéciales de correction est élevé de 16 à 18 ans, et les mesures pénales seront aussi applicables aux enfants au-dessous de 10 ans. . . .

Le législateur a particulièrement fixé son attention sur le phénomène de la récidive.

(Pour les contraventions) on pourra appliquer désormais la *réprimande*, la *condamnation conditionnelle* et, en cas de récidive, l'*amende* et l'*école de discipline*. Les mêmes peines sont prescrites pour les auteurs de *crimes ou délits* au dessous de 18 ans; pour une première contravention l'*amende* et l'*école de discipline* sont applicables à ceux de 14 à 18 ans seulement.

L'*école de discipline* sera la seule peine privative de

liberté pour les jeunes délinquants. . . . La peine n'est applicable que pour crimes et délits, et en cas de récidive seulement pour les contraventions. La durée en est limitée à un minimum général d'un mois, et à un maximum général de six mois ou d'une année au plus, selon l'âge (plus ou moins de 14 ans) et la gravité de l'infraction. Le détenu ne sera isolé des autres que pendant un mois ou plus après son entrée. Cet espace de temps servira au directeur et aux instituteurs pour l'observer et se rendre compte des exigences spéciales du cas. Le reste du temps sera passé avec les autres jeunes détenus, une cinquantaine au plus. Ils recevront l'enseignement primaire et seront occupés à un travail manuel. Les écoles de discipline sont bâties dans de jolis sites, et les détenus feront de la gymnastique, des promenades, se livreront à des jeux en plein air, etc. Une classe de discipline et une classe de faveurs spéciales complètent cet établissement, qui doit offrir un caractère distinct de peine, mais de peine logique et pédagogique.

La *réprimande*, à prononcer par le président de la chambre ou par le juge de paix, est la peine la moins forte, applicable pour les contraventions et pour les crimes et délits commis par des mineurs de 14 ans. . . . A la réprimande peut être jointe une *condamnation conditionnelle* à l'école de discipline avec un sursis d'un à deux ans. C'est pour la première fois, et pour ce cas spécial, que la condamnation conditionnelle est introduite dans notre pays. Quant à l'amende . . . l'officier du ministère public pourra réclamer au patron du délinquant une retenue directe sur le salaire.

A l'élévation de la limite d'âge est étroitement liée la faculté donnée au juge de condamner à une peine prescrite pour les adultes les jeunes gens de 16 à 18 ans qu'il croira tout à fait mûrs et sortis de l'enfance. Pour ceux-là ce sera alors l'emprisonnement ou l'amende ; la simple détention (en commun) est exclue même dans ces cas.

• Au lieu de prononcer une peine le juge pourra remettre aux parents ou tuteurs les accusés qui ont moins de 16 ans.

Il peut aussi, et cela pour tous les jeunes délinquants au-dessous de 18 ans, les mettre à la disposition du Gouvernement quand ils sont coupables d'un crime ou délit de mendicité ou de vagabondage, violences, etc., en récidive. Alors le Ministre de la Justice décidera, après avis du procureur de la Reine et du Conseil général, sur l'éducation et la discipline de ces enfants et sur la méthode d'éducation à adopter. Cette éducation correctionnelle, pourra désormais durer jusqu'à la majorité de 21 ans, tandis que sous l'ancienne loi on ne pouvait retenir les détenus que jusqu'à 18 ans, âge beaucoup trop bas pour les laisser en liberté. L'enfant pourra être placé dans une maison de correction gouvernementale; ces maisons ont été complètement réorganisées suivant les principes modernes de la science pénitentiaire. Mais on pourra aussi le confier aux sociétés de bienfaisance privée. On espère même que les œuvres privées viendront en premier ordre et que les établissements gouvernementaux ne serviront qu'à pour les cas spéciaux. Dans la législation nouvelle c'est en premier lieu de l'assistance privée qu'on attend l'amendement de la jeunesse abandonnée ou coupable. L'assistance privée bénéficiera du concours de l'État, qui lui garantit les droits et les moyens d'action, mais qui du reste, exception faite d'un contrôle indispensable, la laisse libre d'agir et de s'organiser. La mise à la disposition du Gouvernement durera jusqu'à la majorité. Mais à tout âge le détenu pourra être libéré, le plus souvent conditionnellement. Il sera alors placé sous la surveillance d'un patron.

Il peut se présenter des cas sérieux de jeunes délinquants trop dangereux pour les libérer à leur majorité de 21 ans. Alors le juge pourra prononcer une détention prolongée. . . .

Les affaires des jeunes accusés seront traitées dans la chambre du Conseil en dehors de toute publicité. Les parents doivent être présents pour donner des renseignements. . . .

Ces lois datent des 6 et 12 février 1901, mais leur

adoption nécessitant la construction de nouveaux établissements et la préparation de règlements d'exécution, elles n'ont été mises en vigueur que le 1^{er} décembre 1905.

TRANSLATION

In the Civil Code the *forfeiture of paternal control* has been introduced. . . . By the new Law forfeiture may be pronounced up to the attainment of majority by the child. Rights may be declared forfeited by the father or mother (1) who abuse their parental authority; (2) who seriously fail in their duty of maintaining and educating their children; (3) who lead vicious lives; (4) who have been condemned either to a sentence of imprisonment of two years or more, or for a crime or offence committed with the complicity of a minor under their authority, or for a crime or offence committed against a minor under their authority. . . .

Another provision is intimately connected with forfeiture: the *discharge* from parental control. No mark of infamy attaches to this, and it may only be pronounced if the father or mother raise no opposition. But the father or mother cannot themselves apply for discharge. discharge is intended to offer a means of procuring a better upbringing for the children of parents of good intention but insufficient authority, not to relieve indolent parents.

The effect of forfeiture and discharge is identical: the authority of the father or mother ceases absolutely. . . . Instead of naming a person the tribunal may assign the guardianship to a private society which has declared itself ready to receive the minor. . . . The Government may subsidise societies for every child taken from its parents, according to a definite scale. . . . The societies may place the children in institutions or have them brought

up by private persons. They have all the powers of guardianship until the child's majority. 'They may obtain the free commitment of intractable pupils to a State Reformatory. . . . In spite of forfeiture or discharge the obligation of maintenance still rests with the parents.' The judge, in decreeing guardianship, fixes the amount of the contribution they will have to pay. This sum may be recovered by the Council of Guardianship from the parent's wages, his employer being obliged to hold back the amount fixed by the judge, and this sum is paid to the Council of Guardianship direct.

. . . Let us consider the innovations in penal legislation. But first let us notice that from the legislative point of view there is no intrinsic difference according as the child has committed a punishable act or not. . . . In principle the law places on the same footing all adolescent children up to the age of *eighteen* (penal majority). . . . The age limiting the application of special measures of correction has been raised from sixteen to eighteen, and penal measures will also be applicable to children under ten. . . .

The attention of legislators has been specially fixed on the phenomenon of recidivism.

Henceforth misdemeanours may be dealt with by *reprimand*, *conditional condemnation*, and for a repeated offence by *fines* and *committal to a Reformatory*. The same punishments are prescribed for the authors of crimes or offences under eighteen years of age; for a first misdemeanour, fining and committal to a Reformatory are applicable only to those from fourteen to eighteen years of age.

The *Reformatory* is for juvenile offenders the only penalty which may deprive them of liberty. The penalty applies to crimes and offences; to misdemeanours only in case of repetition. Its duration is limited to a general minimum of one month, and to a general maximum of six months, or at most a year, according to the age (over or under fourteen) and the seriousness of the fault. The

prisoner is only isolated from his fellows for a month at most after his entrance. This period enables the director and instructors to observe him and become acquainted with the special exigencies of the case. The remainder of the time is passed with the other young prisoners, fifty at most. They receive primary instruction, and are employed on manual labour. The "schools of discipline" are well situated, and the prisoners practise gymnastics, go for walks, and play outdoor games. A "class of discipline" and a "class of special favours" complete the establishment, which is intended to be distinctly punitive in character, but logically and instructively punitive.

Reprimand, pronounced by the President of the Court or by a J.P., is the least severe penalty, and is applicable for misdemeanours, and for crimes and offences committed by children under fourteen. . . . To reprimand may be added a conditional sentence to a Reformatory, holding good for from one to two years. This is the first time, and it is only for this special case, that the conditional sentence has been introduced into our country. As to fining, . . . the public ministerial officer can claim from the delinquent's employer the direct retention of part of his wages.

With the raising of the age limit is closely connected the power bestowed on the judge of condemning young people from sixteen to eighteen years of age to the penalties prescribed for adults, should he consider them altogether mature, and with childhood behind them. These are either imprisoned or fined; simple detention (in common) is excluded even in these cases.

Instead of pronouncing judgment, the judge may hand over to the custody of parents or guardians accused persons of under sixteen years.

He can also, and this in respect of all juvenile offenders under eighteen, place them *at the disposition of the Government* when they are guilty of a repeated offence of begging, vagrancy, violence, etc. The Minister of Justice, after consultation with the Public Prosecutor and General

Council, decides on the education and punishment of these children, and on the method of education to be adopted. Henceforth this corrective education may continue until majority is attained at twenty-one years of age; whereas under the old law the prisoners could only be detained up to eighteen—far too low an age to set them at liberty. The children may be placed in a Government Reformatory; these have been completely reorganised on modern principles of penitentiary science. But they may also be confided to private benevolent societies. It is even hoped that private effort will take the first place, and that these Government institutions will only be used for special cases. With the new legislation it is in the first place by means of private assistance that the reformation of abandoned or guilty juveniles is expected. Private assistance will benefit by the co-operation of the State, which secures its rights and means of action, but for the rest, except for the indispensable inspection, leaves it free to act and to organise. The placing at the disposition of the Government continues until majority. But at any age the prisoner may be released, as a rule conditionally. He is then placed under the surveillance of a patron.

There may be serious cases of young delinquents too dangerous for release on their majority at twenty-one years of age. The judge then orders a prolonged detention. . . . Juvenile cases are dealt with in the council chamber in complete privacy. The parents must be present to give information. . . .

These Laws date from February 6 and 12, 1901, but as their adoption rendered necessary the construction of new institutions, and the preparation of rules for carrying them out, they were only put in force on December 1, 1905.

HUNGARY

MAISONS DE CORRECTION¹

Statuts

§ 6. SONT admis dans les établissements de correction :

(1) Les individus mineurs tombant sous le coup des §§ 42, 84, ou 85 de la loi V de l'an 1878, ou sous celui des §§ 19, 65, et 66 de la loi XL de l'an 1879.

• • [NOTE.]—(§ 84. Ne pourra être puni pour avoir commis un acte celui qui aura plus de douze ans, mais moins de seize au moment où il l'aura commis, s'il est incapable de discerner la culpabilité de cet acte.

Toutefois ce mineur peut être condamné à l'internement dans une maison de correction où il ne pourra, cependant, être retenu au-delà de sa vingtième année révolue.

• • 85. Si les individus mentionnés par le § précédent sont capables de discerner leur culpabilité au moment de la perpétration, ils pourront être punis conformément aux dispositions ci-après :

(1) de deux à cinq ans de reclusion pour crime entraînant la peine de mort ou les travaux forcés à vie.

(2) de deux ans de reclusion au plus pour crime entraînant une peine de cinq à quinze ans de travaux forcés ou de prison d'État.

¹ *La Lutte contre la Criminalité des Mineurs en Hongrie*, publié par le Ministère Royal Hongrois de la Justice, par Dr. Béla Kun et Dr. Étienne Ládai, Budapest, 1905 (pp. 400).

(3) de deux ans de prison pour tout autre crime.

§ 86. Les individus punis en vertu du § précédent doivent être séparés des autres détenus pendant toute la durée de leur peine privative de la liberté.

§ 42. . . . Les individus condamnés à la prison mais n'ayant pas encore passé l'âge de vingt ans peuvent, dans l'intérêt de leur amendement, être condamnés à passer en cellule leur peine n'excédant pas six mois de prison.

La cour peut encore ordonner l'internement de ces mineurs dans une maison de correction au lieu et en place de la détention cellulaire ; au cas où cette mesure n'aura pas été ordonnée par le jugement, le Ministre de la Justice est autorisé à la prendre sur la proposition de la commission de surveillance si elle l'estime nécessaire.

§ 19. Purgeront dans une maison de correction leur peine de détention de plus de trois jours les individus qui n'auront pas encore passé l'âge de vingt ans si la localité dispose d'un établissement de ce genre.

§ 65. Les vagabonds n'ayant pas encore vingt ans d'âge peuvent être internés par les autorités dans une maison de correction existante dans la localité et y être retenus pendant un an au plus.)

(2) Par suite de la demande faite par une autorité tutélaire, les individus mineurs n'ayant pas passé encore leur dix-huitième année, qui se trouvent sur la pente fatale de la corruption morale, n'ont pas de fortune, dont les parents ne vivent plus ou subissent une longue peine privative de la liberté, ou qui, placés sous la direction de parents ou proches menant une vie immorale, se voient négligés par ces derniers au point de vue de leur éducation morale.*

(3) Sont encore admis dans la mesure du possible les mineurs n'ayant pas passé encore leur dix-huitième année, dont l'admission a été demandée par les personnes exerçant le pouvoir paternel, ou tous autres individus, autorités ou sociétés compétents, si leur penchants immoraux rendent désirable que ces individus soient soumis à l'éducation corrective d'une maison de correction.

§ 15. . . . La confection des vêtements doit être uni-

• forme et simple, mais non dépourvue d'une certaine grâce extérieure. Chaque pièce d'habillement doit être entretenue dans un état irréprochable de propreté et d'ordre, attendu que faire aimer ces qualités par le pensionnaire constitue un facteur de correction dont l'importance n'est point à dédaigner.

§ 20. Le directeur et le personnel de surveillance ne perdront donc jamais de vue que l'établissement n'est pas un lieu destiné à l'exécution d'une peine, et que, en conséquence, les pensionnaires n'y sont pas admis en vue d'expier un méfait, mais confiés à leur garde et à leurs soins afin de corriger et de développer le sens moral négligé. . . . Le personnel de surveillance agira donc à leur égard moins avec une sévérité rigide et absolue, qu'en se servant de la persuasion et de bons conseils prodigués avec beaucoup de conséquence ; ce faisant ils chercheront à agir sur les pensionnaires de sorte que ceux-ci prennent en affection le règlement et le programme, l'obéissance et la bonne conduite.

§ 43. Attendu que dans les établissements de correction le travail n'est pas imposé aux pensionnaires à seule fin de rendre leur sort plus pénible, mais afin qu'ils apprennent à l'aimer pour son utilité après avoir reconnu les obligations sérieuses que la société impose à ses membres, il convient que l'ouvrier reçoive une récompense correspondante à la besogne faite.

• Cette récompense se compose du quart ou de la moitié de la valeur que représente le travail exécuté. Ces quotités ne peuvent être réduites par mesure disciplinaire.

§ 44. La rétribution n'est pas remise entre les mains du pensionnaire ; elle est portée hebdomadairement dans un livret de gains qui reste entre les mains du titulaire ; l'argent gagné par celui-ci est placé par les soins de la direction et ne lui sera remis, ou à l'autorité tutélaire compétente, qu'au jour où il quittera l'établissement.

Cependant il est libre de disposer de la moitié des gains gérés comme il a été dit ci-avant, et peut consacrer cette part soit pour venir en aide à des parents ou proches

pauvres, soit à l'achat d'outils, d'instruments de musique ou de précision, ou à celui de tous autres objets et articles utiles. . . .

§ 45. En outre de ce livret chaque pensionnaire en reçoit un autre dont les 52 pages portent les trois colonnes suivantes : "conduite," "études scolaires," "application au travail" ; à la fin de chaque semaine les notes sont portées : dans la première et la dernière colonnes par le chef de famille, dans celle du milieu par l'instituteur compétent. De cette manière le pensionnaire est à même de suivre en personne et pas à pas les résultats de ses efforts.

§ 50. Le pensionnaire qui contrevient au règlement intérieur, aux règles de l'obéissance et de la décence peut être puni disciplinairement par le directeur des peines ci-après énumérées :

- (a) l'admonestation ; (tête à tête) ;
- (b) la réprimande ; (en présence de toute la famille) ;
- (c) la contrainte de prendre ses repas à part, avec, exclusion des jeux de société ;
- (d) la perte des distinctions obtenues, celle des faveurs spéciales (telles que : le droit de recevoir des visites, d'écrire des lettres, de se promener en dehors de l'enceinte) ;
- (e) le retranchement de certains mets, mais seulement à des jours alternativement désignés ;
- (f) le renvoi de la famille ;
- (g) l'isolement complet.

NOTE.—In an article based on this Blue-Book in *The Humane Review*, April 1906, the author says : "It is obvious that corporal punishment is never practised or even thought of. The aim is not to brutalise, but to amend character." Cf. p. 159 : "On pourra, de plus, recourir au châtiement corporel, car l'expérience a prouvé, que—pour certains cas—son application est admissible, qu'il est même indispensable et souvent un moyen d'éducation très efficace, pour peu qu'il soit administré avec tact et modération et au moment utile. Mais il est

rarement admis et seulement lorsqu'on aura épuisé tous les autres moyens coercitifs sans avoir réussi. Il ne sera jamais public, toujours précédé par la consultation du médecin et comportera 12 coups de verge au maximum."

(Recourse may, moreover, be had to corporal punishment, for experience has proved that, in certain cases, its application is admissible, even indispensable, and that it is often a very efficacious means of education, provided it is administered with tact and moderation and at the right moment. But it is rarely admitted, and only when all other means of coercion have been exhausted without success. It is never public, is always preceded by a consultation with the doctor, and must not exceed a maximum of twelve strokes with a birch-rod.)

It is unfortunate for the reputation of "humanitarian" ethics that so misleading a statement should have been printed in the anti-flogging organ.

§ 51. Avant de mettre en liberté le pensionnaire, mais après s'être concordé avec le chef de famille et l'aumônier compétents sur l'époque à laquelle cette libération doit avoir lieu, le directeur adresse un rapport au Ministre de la Justice sur la décision qu'il a prise. Si le pensionnaire à libérer n'a plus de parents, ou si ceux-ci mènent une vie qui influerait en mal sur les mœurs du pensionnaire, le directeur s'efforcera de trouver à ce pensionnaire dès sa sortie de l'établissement un moyen d'existence honnête, conforme aux connaissances et aptitudes du libérable; la place lui sera assurée par un contrat de louage d'ouvrage passé entre le directeur et le patron, sauf consentement du pensionnaire, bien entendu.

Personnel des établissements

. . . Étant donné qu'avec le système de l'isolement chaque famille se compose de 20 membres, chacune d'elles est confiée à la direction du chef de famille ou d'un auxiliaire de chef de famille enseignant et élevant les pensionnaires soumis à ses ordres. L'enseignement professionnel est donné par des industriels employés en

qualité de contre-maîtres; chaque famille en a deux. Ce personnel est celui des établissements d'ancien type.

Il en est tout autrement en ce qui concerne le personnel des établissements de nouveau type: Kassa et Aszód. Étant donné que ces derniers disposent aussi d'écoles professionnelles, il a fallu les doter d'un personnel spécial. Comme les autres ces établissements relèvent aussi d'un directeur placé à leur tête, mais l'école professionnelle est dirigée par un ingénieur qui agit en sa qualité de professeur en toute indépendance pour tout ce qui touche au service technique de son école. Il a sous ses ordres des professeurs spéciaux et les chefs de famille qui s'occupent aussi d'enseignement professionnel; lui sont encore subordonnés: les contre-maîtres, mécaniciens, chefs d'équipe, etc.

Il faut que le chef de famille élève ses pensionnaires conformément à leur individualité, ce qui veut dire que sa méthode d'éducation doit s'adapter à l'individualité de chacun de ses élèves. . . .

V. *L'admission des pensionnaires*

L'admission peut être motivée par :

(a) Un jugement, c'est-à-dire dans le cas où une Cour de Justice jugeant un délinquant mineur âgé de plus de 12 ans, mais moins de 16 ans, le condamne en vertu de § 84 du code pénal à être placé dans une maison de correction, ou si ce tribunal condamne à la prison, un délinquant âgé de 12 à 20 ans, il décide, dans son jugement qu'en vertu du § 42 du code pénal, cette peine de prison sera purgée dans une maison de correction.

(b) Une proposition de la commission de surveillance. Car, si une Cour de Justice condamne à la prison un délinquant mineur âgé de moins de 20 ans, le procureur peut proposer à la commission de surveillance de recommander au Ministre de la Justice le placement du délinquant dans une maison de correction; celui-là agissant en vertu du § 42 du code pénal, peut alors

ordonner l'admission de celui-ci dans une maison de correction au lieu et place de l'emprisonnement.

(c). La demande du père . . . En ce qui concerne les mineurs mentionnés sous (a) l'âge de 16 ans est une limite parce qu'à partir de cet âge ils peuvent déjà être admis dans les prisons d'arrondissement pour mineurs.

(Il ne pourra être donné suite à la demande que) s'il y a garantie que le mineur pourra être retenu à l'établissement pendant tout le temps qui paraît nécessaire pour lui donner une bonne éducation et lui faire apprendre à fond un métier quelconque. En conséquence il y a lieu de joindre à la demande de la commission de surveillance (b), de même qu'à celle du père, tuteur (c), une déclaration en bonne et due forme dans laquelle le requérant consent à laisser le mineur à l'établissement jusqu'à l'âge de 20 ans.

Cette déclaration doit être obtenue, autant que possible, même pour ce qui concerne les mineurs que le tribunal condamne à une peine de prison à purger dans une maison de correction (§ 42 du code pénal). Elle est nécessaire parce qu'en ce cas le tribunal fixe la durée de la prison qui peut être, éventuellement, trop courte pour assurer un bon résultat. Mais si la cour décide en vertu du § 84 du code pénal, point n'est besoin de cette déclaration, car en ce cas elle ne fixe pas la durée du placement dans un établissement de correction, et la loi elle-même ne la limite qu'en tant qu'elle ne peut aller au-delà de la 20^e année.

La Famille

Sauf en ce qui concerne le travail, toute la vie des pensionnaires se déroule dans la famille à l'établissement. . . . Le chef de famille s'efforce de connaître de son mieux ses pensionnaires, il note exactement tout ce qui se rapporte à eux et il use de tous les moyens en son pouvoir pour agir sur eux conformément au but proposé, jusqu'à ce qu'il ait trouvé le vrai chemin qui le mènera à la transformation du caractère de son pupille. Attachant la principale importance au travail, il cherche à l'amener

graduellement à reconnaître de lui-même que la vie sans travail est non seulement peu désirable, mais encore vide et répugnante. Il tâche de déraciner dans l'enfant tous ses penchants antisociaux ; lui fait comprendre qu'il doit trouver sa place dans la société ; qu'il doit se conformer à l'ordre social parce que la vie de l'individu est bien plus tranquille, plus commode, moins agitée et plus heureuse s'il est membre de la société au lieu d'être son ennemi. En conséquence tout en s'efforçant de faire disparaître les défauts de caractère de son pupille, il cherche surtout à lui assurer la rentrée dans les conditions normales d'existence, l'adaptation aux coutumes de la société en transformant peu à peu ses sentiments et sa manière de voir.

Enseignement Professionnel

Un enseignement professionnel à fond et un métier quelconque sont de première importance non seulement parce qu'ils assurent au pensionnaire libéré un moyen d'existence sûr, mais encore parce que ce sont là les plus importants, sinon les seuls facteurs efficaces de l'éducation corrective. Tous les enseignements, exemples, instructions donnés aux pensionnaires de tous côtés n'amènent au but désiré que dans le cas où il prend par là l'amour du travail ; que si l'on réussit à éveiller en lui l'ambition et l'amour propre ; s'il trouve naturel que le travail fait aussi partie des besoins les plus essentiels de la vie ; s'il reconnaît que c'est là une condition primordiale du bien-être physique et moral tout aussi importante que l'alimentation, l'habillement, etc. Dès qu'il se rend compte que le travail est indispensable non parce qu'il y est contraint, mais parce qu'il satisfait à une condition de la vie humaine on peut dire que l'éducation et la correction sont menées à bonne fin. Certes, il lui restera toujours quelques défauts ; mais la tâche de l'établissement de correction n'est pas d'élever des hommes parfaits, ce dont l'éducation de la famille même est incapable, mais d'en faire des hommes utiles et de débarrasser la société d'éléments

dangereux. Et il atteindra ce but s'il parvient à leur faire aimer le travail et s'il arrive à les convaincre de sa nécessité inéluctable tout en lui démontrant qu'il pourra en servir à son entretien. Or, arrivés à ce point, ces hommes-là ne sont plus des ennemis, mais des membres utiles de la société.

Chaque pensionnaire nouveau-venu est classé dans la famille dite "expérimentale." Pendant son séjour dans cette famille on étudie ses qualités individuelles et ses défauts, on examine ses connaissances en matières scolaires que l'on étend ensuite, cependant que le chef de famille cherche à découvrir dans le sujet le penchant qui le porte vers un métier plutôt que vers un autre parmi ceux exercés à l'établissement, et s'efforce de fixer définitivement les talents et conditions individuels qui le rend apte à l'exercice de tel métier ou de tel autre. Cette famille a encore pour tâche d'introduire le pensionnaire novice dans le règlement intérieur, de l'y habituer à fond et de l'accoutumer à l'exécution d'un travail manuel systématique. On peut donc voir que la famille expérimentale forme une sorte de phase transitoire entre la vie extérieure et l'éducation donnée à l'établissement. . .

De cette famille le pensionnaire passe en temps voulu dans une des familles qui exerce le métier choisi par lui comme son futur moyen d'existence. A partir de ce moment il ne quitte plus sa nouvelle famille au sein de laquelle il demeure pendant tout le reste de son séjour à l'établissement, sous la direction d'un seul et même chef de famille.

La famille expérimentale est confiée à la direction d'un des plus capables chefs de famille de la maison. . . .

Il fallait compter avec l'antipathie que la société manifestait à l'égard des pensionnaires libérés qu'elle considérait comme frappés d'infamie jusqu'à un certain point. Il est évident que cette façon de voir aggrava singulièrement la situation des libérés qui, grâce à ce préjugé de la société, étaient, pour ainsi dire, privés de toute possibilité de lutter pour la vie.

Or ce préjugé ne saurait être dissipé que si les pensionnaires libérés des maisons de correction surpassent la moyenne de leurs compagnons formés en liberté aussi bien sous le rapport du zèle et de l'ambition, qu'en ce qui concerne les connaissances professionnelles qui doivent être chez eux au-dessus de tout reproche. Mais, pour y parvenir, il faut commencer par leur enseigner le métier avec plus de perfection, plus à fond que ne peut le faire l'industriel libre à l'égard de son apprenti libéré.

Cette idée amena par la suite un revirement total de l'opinion préconçue sur le fonctionnement et l'activité des maisons de correction.

Antérieurement le département de la Justice professait l'opinion que dans l'éducation des établissements de correction il fallait attribuer la principale importance à l'effet psychique que les pédagogues de l'établissement exerçaient sur les pensionnaires par leur enseignement moral, l'instruction scolaire, la stimulation et les bons exemples donnés. Avec cette opinion-là le travail n'était qu'un moyen auxiliaire appelé à favoriser le développement du caractère.

Cependant, il fallut reconnaître tôt ou tard que les efforts faits en ce sens n'étaient pas de nature à amener le résultat désiré. La source du crime ne se trouve pas reléguée exclusivement dans les particularités qui caractérisent l'individu pris isolément : le crime forme en même temps un symptôme social. Il ne suffit donc pas de vouloir simplement corriger le coupable : encore faut-il chercher à faire disparaître les conditions et circonstances sociales qui le forcent à retourner vers le crime quelque favorable que soit le changement survenu dans les penchants et particularités du caractère.

Il fallut reconnaître encore que l'éducation donnée dans l'établissement était gaspillée en pure perte même en ce qui concerne les pensionnaires les plus complètement amendés, si, après leur libération, ces malheureux rentrent dans le milieu dont ils avaient été arrachés. Impossible de sauvegarder l'intégrité de leur amendement moral s'ils

- étaient contraints à vivre de nouveau dans la société des vagabonds et des ivrognes.
- Donc il faut donner au pensionnaire les moyens lui permettant de s'élever de son milieu passé vers un autre milieu social. Or, pour ce faire, il est indispensable de lui enseigner à l'établissement une profession, et de la lui apprendre si bien qu'il soit capable de figurer comme ouvrier indépendant à même de gagner sa vie dès sa mise en liberté. Si on lui assure cette condition, il ne reste plus de crainte à concevoir à propos du résultat que doit donner l'éducation corrective.

En outre, il est absolument certain que l'influence du travail sur la formation du caractère ne deviendra réellement incontestable, et ne se fera valoir dans toute son intégralité que dans le cas où le pensionnaire apprendra à aimer son nouveau métier. Or, cette affection pour le travail ne s'annonce qu'à partir du moment où l'individu devient capable de créer en toute indépendance, où il s'élève à un plus haut niveau dans son métier, quand il voit nettement le résultat de son travail.

Toutes ces considérations ont fait naître la conviction que dans les établissements de correction c'est à l'enseignement professionnel qu'il fallait attacher la plus grande importance. On revint également de cette ancienne erreur qui voulait qu'on n'y enseignât que de métiers d'artisan, et qu'il fallait en proscrire le travail manufacturier, les machines. Aujourd'hui lorsque l'industrie manufacturière opprime la majeure partie des industries d'artisan, un jeune homme formé seulement à ces dernières ne saura se placer facilement, tandis que celui qui s'entend à la production manuelle tout aussi bien qu'au maniement des machines trouvera toujours beaucoup plus facilement une occupation qui lui assurera les moyens indispensables à sa subsistance. Dès ce moment on admit que, en outre du métier manuel, il fallait absolument enseigner au pensionnaire la production manufacturière, l'usage et le maniement des machines.

Au début . . . on craignait la monotonie des

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pensionnaires. . . objection qui ne pourrait se justifier que dans le cas où il serait question de grands chantiers où le principe de la division du travail serait appliqué à outrance ; en ce cas, en effet la méthode serait nuisible parce que l'élève n'apprendrait qu'une partie tout à fait spéciale d'une industrie et ne travaillerait jamais que dans cette partie. Or ce n'est pas le cas dans les établissements de correction où ils apprennent aussi la petite industrie et se forment en même temps à la manœuvre des différentes machines. Et ainsi non seulement qu'il ne peut y être question de travail monotone, abrutissant, mais, tout au contraire, l'attention et l'intérêt s'éveillent au plus haut degré dans tous les pensionnaires, sans compter qu'on donne une extension considérable à leurs connaissances, ce qui leur facilite un engagement.

. . . l'établissement de correction de Kassa (240 pensionnaires) fut investi du caractère d'une école des arts et métiers. Les pensionnaires qui en sortent reçoivent un certificat de l'école. . . .

Persévérant dans la nouvelle voie le gouvernement installa à Aszód (280 pensionnaires) des ateliers industriels (1904-1905) disposant d'un outillage technique les élevant au niveau des écoles industrielles et des arts et métiers des plus modernes. Mais comme cet établissement dispose en même temps d'une grande étendue de terrain cultivable et de terres arables, les industries furent choisies en conformité d'une exploitation agricole. Les métiers enseignés sont ceux de forgeron, de charron, canossier, bourrelier, tapisseur et vernisseur.

La création des écoles industrielles dans les établissements de correction provoqua naturellement aussi la réforme de l'enseignement scolaire. . . . L'enseignement théorique des écoles professionnelles et industrielles sert actuellement les intérêts spéciaux et professionnels de ces écoles, et tend à former des élèves qui les fréquentent des industriels versés dans leur métier et capables de se servir des progrès techniques aussi bien que des conquêtes intellectuelles de la civilisation moderne. . . . L'économie

agricole d'Aszód fut transformée en ferme modèle . . .
l'école d'horticulture des établissements d'Aszód et de
Kassa fut portée au niveau des conquêtes modernes et
pourvue de serres-chaudes répondant aux dernières exi-
gences de l'art.

*Résultats moraux du régime de la Maison de Correction
à Aszód*

De 1884 à 1904 on a renvoyé de l'établissement :—

		Per cent.
A titre d'essai . . .	458	52.59
Définitivement . . .	413	47.41
	<hr/> 871	

Parmi les élèves renvoyés à titre d'essai on a relevé :—

		Per cent.
Conduite bonne . . .	316	68.99
„ variable . . .	68	14.89
„ mauvaise . . .	34	7.38
„ inconnue . . .	34	7.38
Décédés . . .	6	1.36
	<hr/> 458	

Élèves définitivement renvoyés :—

		Per cent.
Conduite bonne . . .	217	52.54
„ variable . . .	37	9.00
„ mauvaise . . .	86	20.80
„ inconnue . . .	47	11.36
Décédés . . .	26	6.30
	<hr/> 413	<hr/> 100.00

*Occupation actuelle des élèves renvoyés de 1884
à la fin de 1904*

Employés (publics ou privés)	18
Instituteurs primaires	2
Employés non commissionnés	2
Douaniers	2
Comédien	1
Industriels (patrons, compagnons, ou ap- prentis)	311
Commerçants (patrons, employés, ou ap- prentis)	30
Employés ruraux	5
Jardiniers	71
Cultivateurs, vigneron	81
Journaliers, domestiques	120
Commis-voyageur	1
Garçons de café	4
Ouvriers de fabrique	26
Mineurs	5
Matelot	1
Soldats	3
Écoliers	30
Décédés	27
Aliénés	2
Vagabonds	32
Raccommodeurs de poterie	2
Émigrés en Amérique	5
Ont été détenus	12
La police recherche	4
De séjour inconnu	74
	<hr/>
	871

Parmi les 837 qui restent, il y a 715, soit 85½ per cent, ayant une occupation régulière.

*Résultats obtenus par l'éducation donnée aux établissements royaux hongrois de correction depuis l'an 1884 jusqu'en fin de 1904*¹

Étaient libérés :—

		Per cent.
A titre d'essai	1012	61
Définitivement	637	39
	<hr/> 1649	
A conduite bonne	1071	65
„ variable	183	11
„ mauvaise	175	10
„ inconnue	149	8
Décédés	71	6
	<hr/> 1649	

TRANSLATION

HOUSES OF CORRECTION²

Statutes

§ 6. Are admitted to the correctional establishments :

(1) Minors under §§ 42, 84, or 85 of Law V. of 1878, or under §§ 19, 65, and 66 of Law XL. of 1879.

[NOTE].—(§ 84. He who at the time of committing an act was more than twelve but less than sixteen years of age, cannot be punished if at the time of committing it he was incapable of discerning its culpability.

¹ See below, p. 314, for an account of the *Prison Centrale d'Arrondissement des Mineurs*.

² *The Struggle against the Criminality of Minors in Hungary*. By Dr. Béla Kun and Dr. Étienne Laday. Published by the Royal Hungarian Ministry of Justice. Budapest, 1905. (Pp. 400.)

He may, however, be condemned to confinement in a House of Correction, but cannot be retained beyond the expiration of his twentieth year.

§ 85. If the individuals referred to in the preceding Section are capable of discerning the culpability of their act at the moment of perpetration, they may be punished as follows:—

(1) By two to five years' imprisonment for a crime entailing capital punishment or penal servitude for life.

(2) By a maximum of two years' imprisonment for a crime entailing five to fifteen years of penal servitude.

(3) By two years' imprisonment for all other crimes.

§ 86. Individuals punished under the preceding Section must be separated from other prisoners during the whole period of confinement.

§ 42. Individuals who, not having yet passed their twentieth year, are condemned to prison, may, in the interest of their amendment, be condemned to serve their sentence, if it does not exceed six months' imprisonment, in a cell. . . .

The Court may order the confinement of such minors in a House of Correction in lieu of cellular detention; in case this measure has not been ordered by the judge, the Minister of Justice is authorised to have recourse to it on the proposal of the "Committee of Surveillance."

§ 19. Individuals who have not yet passed their twentieth year may serve a sentence of more than three days in a House of Correction if there is in the locality an establishment of that nature. . . .

§ 65. Vagabonds not yet twenty years of age may be confined by the authorities in a House of Correction existing in the locality, and detained there during a maximum of one year.)

(2.) On application made by a tutelary authority, those minors who, not having yet passed their eighteenth year, are on the fatal road to moral corruption, are destitute, whose parents are no longer living or are undergoing a long sentence of imprisonment, or who, under the authority

of parents or relations leading an immoral life, are neglected so far as regards their moral education.

(3) Are also admitted, in so far as possible, minors not having yet passed their eighteenth year, whose admission has been applied for by persons exercising parental authority or other competent individuals, authorities, or societies, if their immoral tendencies render it desirable that these individuals should be subjected to the corrective education of a House of Correction.

§ 15. . . . The make of clothing should be uniform and simple, but not without a certain exterior grace. Every article of dress should be kept in an irreproachable condition of cleanliness and order, since the formation of a love of these qualities in the pupil constitutes a factor of correction whose importance is not to be despised.

§ 20. The director and staff must never lose sight of the fact that the institution is not a place destined for the execution of a punishment, and that consequently the pupils are not admitted with a view to expiating a fault, but confided to their guardianship and care in order to correct and develop their neglected moral sense. . . . The staff must therefore treat them less with a rigid and absolute severity than by making use of persuasion and good advice lavished with great consistency; acting thus they must seek so to influence the pupils that they develop affection for the regulations and scheme of life, for obedience and good conduct.

● § 43. Seeing that in the corrective institutions work is not imposed on the pupils merely to make their lot harder, but in order that they may learn to love it for its utility, after having recognised the serious obligations which society imposes on its members, it is fitting that the worker should receive a recompense corresponding to the labour accomplished.

This recompense consists of a quarter or half of the value represented by the work done. These shares cannot be reduced as a measure of discipline.

§ 44. The reward is not handed over to the pupil; it

is entered weekly in an account-book, which remains in his possession; the money gained by him is placed in a bank by the management, and is only handed to him or to a competent tutelary authority on the day he leaves the institution.

Nevertheless he is free to dispose of half of the above gains, and may devote this portion either to the assistance of poor parents or relations, or to the purchase of tools, musical instruments, or other useful articles. . . .

§ 45. Besides the account-book each pupil receives another book, whose fifty-two pages are divided into three columns headed "Conduct," "Scholastic Studies," "Application to Work"; at the end of every week notes are entered—in the first and last columns by the head of the family, in the middle one by the teacher qualified. By this method the pupil can himself follow step by step the results of his efforts.

§ 50. The pupil who transgresses a regulation, the rules of obedience or of decency, may be punished by the director in the ways here enumerated:—

- (a) Admonition (private).
- (b) Reprimand (in presence of the family).
- (c) Is obliged to take his meals apart and is excluded from games.
- (d) The loss of distinctions gained and of special favours (such as the right to receive visits, to write letters, or to walk outside the grounds).
- (e) Is deprived of certain dishes, but only on alternate days.
- (f) Dismissal from his family.
- (g) Complete isolation.

(See Note, p. 290, of French copy.)

§ 51. Before setting the pupil at liberty, but after agreement with the qualified head of the family and chaplain as to the time at which this liberation should take place, the director addresses a report to the Minister of Justice concerning the decision made. If the pupil has

no parents, or if they lead a life which would have an evil influence on him, the director will endeavour to find for him on his departure from the institution an honest means of existence suitable to his knowledge and disposition; the situation will be assured to him by a contract between the director and the employer, granted, of course, the pupil's consent.

Staff of the Institutions

By the isolation system the "family" being composed of twenty members, each is confided to the management of the "head of the family" or a supernumerary head of the family, who teaches and educates the pupils under his orders. Professional instruction is given by workmen employed as foremen; each family has two. This is the staff of the institutions of the old type.

With regard to the new type of institution, Kassa and Aszód, things are quite different. These being also provided with "professional schools," it was necessary to give them a special staff. Like the other institutions they have a director at the head, but the "professional school" is superintended by an engineer, who in his quality of professor acts quite independently in all that concerns the technical service of his school. Under his orders are special professors and the heads of families, who also attend to the professional instruction; as subordinates he has also the foremen, mechanics, overseers, etc.

The head of the family must bring up his pupils conformably to their individuality, i.e. his method of education must be adapted to the individuality of each of his pupils.

Admission of Pupils

The cause of admission may be:—

(a) A judicial sentence, i.e. when a Court of Justice, on trying a delinquent minor aged more than twelve but less than sixteen, condemns him, in virtue of § 84 of the Penal Code, to be placed in a House of Correction; or if

this tribunal condemns to prison a delinquent aged from twelve to twenty years, and decides in passing sentence that in virtue of § 42 of the Penal Code the sentence of imprisonment shall be expiated in a House of Correction.

(b) A motion of the "committee of surveillance." For if a Court of Justice condemns to prison a delinquent minor aged less than twenty years, the Public Prosecutor may propose to the committee to recommend to the Minister of Justice the placing of the delinquent in a House of Correction; the Minister, acting in virtue of § 42 of the Penal Code, may then order his admission to a House of Correction in place of imprisonment.

(c) The application of the father, etc. . . .

As far as concerns the minors mentioned under (a), the age of sixteen is a limit, because after that age they may be admitted to the district prisons for minors.

(The application cannot be complied with) unless there is a guarantee that the minor may be detained in the institution during the whole time which seems necessary to give him a good education and to teach him some trade thoroughly. In consequence it is necessary to append to the application of the committee of surveillance (b), as well as to that of the father or guardian (c), a declaration in due form, in which the applicant consents to hand over the minor to the institution up to the age of twenty years.

This declaration should be obtained, in so far as possible, even in the case of those minors whom the tribunal condemns to expiate a sentence of imprisonment in a House of Correction (§ 42 of the Penal Code). It is necessary because in that case the tribunal fixes the duration of the term of imprisonment, which may be too short to ensure a good result. But if the Court decides in virtue of § 84 of the Penal Code, there is no need for this declaration, for in this case it does not determine the duration of confinement in a correctional institution, and the Law itself only limits it in so far as it cannot exceed the twentieth year.

The Family

Except in so far as work is concerned, the whole life of the pupil is passed within the family. . . . The head of the family does his utmost to know his pupils, he notes exactly all that refers to them, and he uses all means in his power to influence them in conformity with the aim proposed, until he has found the real path which will lead to the transformation of his pupil's character. Attaching supreme importance to work, he tries to lead him gradually to recognise for himself that life without work is not only little desirable, but even empty and repugnant. He tries to uproot from the boy all his anti-social tendencies, makes him understand that he must find his place in society, that he must conform to the social order because the life of the individual is much more tranquil, more convenient, less disturbed, and happier if he is a member of society instead of being its enemy. Consequently, whilst endeavouring to eliminate the defects in his pupil's character, he will above all seek to assure his return to the normal conditions of existence and his adaptation to the customs of society by gradually transforming his sentiments and view of life.

Professional Instruction

A thorough professional education and some kind of trade are of the first importance, not only because they assure the pupil a certain means of existence on his release, but also because there we have the most important, if not the only efficacious instruments of corrective education. All precept, example, instruction given to the pupil from every side leads only to the desired end if it inspire him with the love of work, if ambition and self-respect be awakened in him; if he find it natural that labour also should form one of the most essential needs of life, if he recognise that it is a primordial condition of physical and moral well-being quite as important as food, dress, etc. As soon as he grasps the fact that work is indispensable,

not because he is constrained to it, but because it satisfies a condition of human life, one may say that education and correction have gained their purpose. Certainly he will still have faults; but the task of the correctional institution is not to rear men who are perfect, a task of which family education itself is incapable, but to make of them useful men and to free society from dangerous elements. And it will attain this end if it succeeds in making them love work and in convincing them of its unavoidable necessity, at the same time demonstrating to them that they may avail themselves of it for their support. Arrived at this point, such men are no longer enemies, but useful members of society.

Every newly-arrived pupil is classed in the "experimental" family. During his stay in this family his individual qualities and defects are studied, his school knowledge is examined, to be afterwards extended, and the head of the family seeks to discover in him an inclination which leads him to one trade rather than another of those practised in the institution, and endeavours to definitely determine the talents and individual qualities which render him fit for the exercise of one trade or another. This family has also the task of initiating the novice in the domestic regulations, and of thoroughly habituating him to accustom himself to the practice of systematic manual labour. One can see, then, that the "experimental" family forms a sort of transitional phase between life outside and the education given in the institution.

From this family the pupil passes in time into one of the families which practises the trade chosen by him as his future means of existence. From this moment he never leaves his new family, but lives in it during all the rest of his stay in the institution, under the direction of one and the same head of the family.

The "experimental" family is entrusted to the management of one of the most capable heads of families in the institution. . . .

It was necessary to reckon with the antipathy mani-

fested by society with regard to released pupils whom it considered as up to a certain point stained with infamy. It is evident that this view peculiarly aggravated the situation of the ex-pupils, who, thanks to this prejudice of society, were, so to speak, deprived of every possibility of struggling for a livelihood.

Now this prejudice could only be dissipated if the pupils released from Houses of Correction surpassed the average of their fellows trained in freedom, as well with respect to zeal and ambition as in professional skill, which in them should be above reproach. But to arrive at this they must be taught their trade with more perfection, more thoroughly than the free manufacturer can teach his free apprentice.

This idea led to a total revolution of preconceived opinion as to the functions and activity of Houses of Correction.

Previously the Department of Justice professed the opinion that in the education given in correctional institutions the chief importance must be attributed to the psychological effect which the teachers of the establishment exercised on the pupils by moral precept, instruction in school, stimulation, and good example. According to this opinion, work was only an auxiliary means invoked to favour the development of character.

However, sooner or later it had to be recognised that efforts made in this direction were not of a nature to bring about the desired result. The source of crime is not exclusively confined to the peculiarities which characterise the individual taken singly; crime forms at the same time a social symptom. It is not enough, then, to wish merely to correct the guilty; we must also aim at the disappearance of the conditions and social circumstances which force him to return to crime however favourable may be the change which has supervened in his propensities and individual characteristics.

It also had to be recognised that the education given in the institution was frittered away and utterly lost, even in the case of the most completely reformed pupils,

if after their release they were so unhappy as to re-enter the environment from which they had been snatched. Impossible to safeguard the integrity of their moral amendment if they were constrained to live anew in the society of vagabonds and drunkards.

The pupil must therefore be provided with means which enable him to raise himself from his former surroundings towards a different social environment. Now to do this it is indispensable to teach him at the institution a profession, and to teach it him so well that he will be able to live as an independent workman, able to earn his living from the moment of his release. If this condition be assured to him, there remains no fear as to the result which corrective education should give.

Moreover, it is absolutely certain that the influence of work on the formation of character will only become really incontestable and make itself felt in its entirety if the pupil learns to like his new trade. But this liking for work only begins from the moment when the individual becomes capable of independent creation, when he raises himself to a higher level in his craft, when he clearly sees the result of his work.

All these considerations have given birth to the conviction that in the Houses of Correction it is to professional instruction that the greatest importance must be attached. The ancient error which required that only handicrafts should be taught and manufactures and machines proscribed, has equally been recanted. At the present day, when the manufacturing industries drive to the wall the majority of handicrafts, a young man trained only in the latter will not easily find a situation, whilst he who understands manual production as well as the management of machines will always far more easily find an occupation which will ensure to him the indispensable means of subsistence. It has, then, been admitted that in addition to manual crafts it is absolutely necessary to instruct the pupil in the manufacturing processes, to initiate him and to perfect him in the management of machines.

At the beginning . . . the monotony was feared for the pupils . . . an objection which could only be justified, where large workshops are concerned in which the principle of the division of labour is carried to excess; in this case, indeed, the method would be harmful, because the pupil would only learn one particular part of an industry and would never work except at this part. But in the Houses of Correction this is not the case—the pupils learn both the practice of the industry on a small scale and the manipulation of different machines. And thus there can not only be no question of the work being monotonous and brutalising, but, on the contrary, the attention and interest of the pupils are roused to the highest degree, without reckoning the considerable extension of attainments, which facilitates their engagement.

. . . The correctional establishment at Kassa (240 pupils) was invested with the character of a school of arts and crafts. The pupils on leaving receive a certificate from the school. . . .

Persevering on the new lines, the Government (1904-5) installed at Aszód (280 pupils) industrial workshops fitted with a technical plant raising them to the level of the most modern schools of industry, arts, and crafts. But as this establishment possesses a large extent of arable land, industries suitable to agricultural exploitation were selected. The trades taught are those of the blacksmith, wheelwright, coachbuilder, harness-maker, upholsterer, and varnisher.

The foundation of schools of industry in the Houses of Correction naturally provoked the reform of the school instruction. . . . The theoretic instruction given in the schools of trades and industries actually serves the special and professional interests of these schools, and tends to make of the scholars who attend them workmen skilled in their trade and capable of availing themselves of technical progress as well as of the intellectual conquests of modern civilisation. . . . The agricultural department at Aszód was transformed into a model farm

... the schools of horticulture at Aszód and Kassa were raised to the level of modern attainment and provided with hot-houses satisfying the latest requirements of the art.

*Statistics of Results obtained by the House of Correction
at Aszód from 1884-1904*

Total dealt with . . . 871

		Per cent.
Discharged on probation	458	52.59
„ definitely	413	47.41
	<hr/>	<hr/>
	871	

Of those discharged on probation the conduct was reported :—

		Per cent.
Good	316	69.00
Variable	68	14.84
Bad	34	7.42
Unknown	34	7.42
Deceased	6	1.32
	<hr/>	<hr/>
	458	100.00

Of those definitely discharged :—

		Per cent.
Good	217	52.54
Variable	37	9.00
Bad	86	20.80
Unknown	47	11.36
Deceased	26	6.30
	<hr/>	<hr/>
	413	100.00

Occupations at the close of 1904

Employés (public or private)	18
Primary teachers	2
Uncommissioned employés	2
Custom House officials	2
Comedian	1
Engaged in manufactures as masters, workmen, or apprentices	311
Rural occupations	5
Gardeners	71
Agriculturists, wine-growers	81
In trade as masters, clerks, or ap- prentices	30
Day-labourers, servants	120
Commercial traveller	1
Waiters at cafés	4
Factory hands	26
Miners	5
Sailor	1
Deceased	27
Emigrated to America	5
Vagrants	32
Unknown	74
Soldiers	3
Schoolboys	30
Pot-menders	2
Lunatics	2
Imprisoned	12
Wanted by the police	4
Total	871

Of the 837 remaining in the country, 715, or 85 per cent, have regular occupation.

Statistics of all the Houses of Correction from 1884-1904

		Per cent.
Discharged on probation	1012	61
„ definitely	637	39
	<hr/> 1649	
Conduct :—		
Good	1071	64·95
Variable	183	11·10
Bad	175	10·60
Unknown	149	9·05
Deceased	71	4·30
	<hr/> 1649	<hr/> 100·00

CENTRAL PRISON FOR MINORS

The foregoing extracts from the exhaustive work published by the Ministry of Justice will have shown how deserving of study the Hungarian Reformatories are. We must not, however, suppose them capable of accommodating more than a certain proportion of the delinquent juveniles in that country, which is, indeed, incapable of bearing the heavy financial burden which complete provision of this nature would entail. (The cost per head at most of the Houses of Correction is about £20 to £25 per annum; at Kassa nearly £40.) In the last chapter of the same volume an account is given of the problem of dealing with the residue, and of the measures now decided upon for facing it.

Some youths, those, *e.g.*, who have committed offences on the impulse of the moment, are not in need of such a training as the Reformatory provides; some would obviously derive little or no benefit from it; while others, again, are so near their twentieth year that they could not stay long enough to profit. How to deal with these was a question which greatly exercised the minds of the

authorities, who realised, the folly of treating them in the same way as adults, and setting them all to the same labour, labour which made them less instead of more fit for normal life, because while employed on it they were losing the habit of work at their own generally far harder profession. The young labourer who had all his life toiled on the land became completely unfitted to return to it after making paper-bags in prison. But to teach an industry time was lacking; for agricultural labour, to which the majority of the prisoners were habituated, the ordinary gaols offered no opportunities.

Finally (1905), a solution was found in the collection of all minors between sixteen and twenty with sentences of not less than a month in one central prison, the work being organised on the principle that (a) all might be employed on it; (b) all should find it hard; (c) all should derive advantage from it, and also profit by it after their release. Agriculture and horticulture, being the forms of labour which best corresponded to these requirements, were decided on for those months when their practice is possible, domestic industries taking their place in the winter. But in order that industrial workers shall not suffer deterioration by their detention, it is proposed to found a special prison for this class.

While rendering the work performed more useful, it was decided that the punishment of imprisonment ought in general to be more rigorous.

In sum, the arrangements concluded for minors not committed directly by the Courts to Houses of Correction were (a) that the Public Prosecutor should, through the Committee of Surveillance, recommend the placing in a House of Correction of those offenders aged from fifteen to eighteen years who, condemned to prison, would be susceptible to a reformatory education; (b) that children of twelve to fifteen should all be sent to Houses of Correction, with the exception of those, comparatively few, unlikely to profit by such a training or for whom the parents' consent to their commitment to an institution

cannot be obtained; these exceptions are to be detained in the gaols (*maisons d'arrêt*), but strictly separated from adults; (c) that lads of sixteen to twenty years should be committed to the Central Prison for Minors.

At present there is only one such prison—Kassa, with a capacity for receiving 224 inmates. Work is arranged in connection with the House of Correction also at Kassa, which owns a large extent of land. Much of the field and garden labour is so simple that the pupils would waste their time in performing it when they might be learning something fresh, and here, to the general advantage, the prisoners step in. No intercourse is permitted between the two classes. In winter domestic industries are to be substituted for outdoor labour, namely, basket-work, straw-plaiting (hats, matting, chairs, etc.), making implements, etc., of wood. Care is to be taken to have the best tools, materials, and instructors possible, in order that a good market may be secured for the products. If prisoners continue these winter industries after their release, the prison, to encourage the liking for work which may have been developed, is to undertake to buy and dispose of the articles.

It is recommended that prisoners be paid in the same way as the pupils in the Houses of Correction, but at a higher rate. The hours of work are long (twelve hours' field labour), and sustained effort is enforced.

The moral effect of the system is found to be excellent, and discipline leaves little to be desired. The youths like their work, and are said to display such zeal that dismissal from a field-class is employed as a punishment. Their *amour-propre* is awakened by the separation from the adults, the wearing of a completely different dress, and the sense that they are regarded and treated as likely to do well. There is no corrupting or depressing atmosphere of prison about their life, for the land they work on being at a distance of about two miles, they leave the building at 6 A.M. and only return at 7 P.M.

CANADA

THE CHILDREN'S PROTECTION ACT OF ONTARIO

3. THE Lieutenant-Governor in Council may appoint an officer who shall be known as the Superintendent of Neglected and Dependent Children, and whose salary shall be paid out of such moneys as may from time to time be set apart for the purpose by the Legislative Assembly of the Province; . . .

21. Municipal Councils in cities, towns, and incorporated villages shall have power to pass by-laws for the regulation of the time after which children shall not be in the streets at nightfall without proper guardianship . . . and such Municipal Council shall cause a bell or bells to be rung at or near the time appointed as a warning, to be called the "curfew bell," after which the children so required to be in their homes or off the streets shall not be upon the public streets except under proper control or guardianship, or for some unavoidable cause.

29. In cities and towns with a population of more than ten thousand, children under the age of sixteen years who are charged with offences against the laws of this Province, or who are brought before a judge for examination under any of the provisions of this Act, shall not before trial or examination be confined in the lock-ups or police-cells used for ordinary criminals or persons charged with crime, nor . . . shall such children be tried or have their cases disposed of in the police court rooms ordinarily used

as such. It shall be the duty of such municipalities to make separate provision for the custody and detention of such children prior to their trial or examination, whether by arrangement with some member of the police force or other person or society who may be willing to undertake the responsibility of such temporary custody or detention on such terms as may be agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-ups or police-cells; and it shall be the duty of the judge to try all such children, or examine into their cases and dispose thereof, where practicable, in the private office of the judge, if he have one, or in some other room in the municipal buildings; or, if this be not practicable, then in the ordinary police-court room, but only in such last-mentioned case when an interval of two hours shall have elapsed after the other trials or examinations for the day have been disposed of.

The judge shall exclude from the room or place where any child under sixteen years of age . . . is being tried or examined, all persons other than the counsel and witnesses in the case, officers of the law, or of any children's aid society, and the immediate friends or relatives of the child.

Probation-Officer

1. Where a child apparently under the age of sixteen years is brought before a judge charged with any offence against the laws of this Province, the said judge may, without making a conviction, order the child to be placed under the care of a probation-officer, and may by such order require a report to be submitted to him by the officer from time to time concerning the progress and welfare of the child. . . .

3. It shall be the duty of the probation-officer to take a personal interest in the child placed under his care, so as to secure its reformation and enable it to lead a respectable life.

VICTORIA

ACT 579, 1890

REFORMATORIES may be established either by the Governor in Council or by private persons with the approval of the Governor. Reformatories privately established may receive from the State a sum not exceeding . . . five shillings a week per child.

- Whenever any child, apparently under the age of seventeen, is convicted of any offence for which a sentence of imprisonment may be awarded, the judge or chairman of the Court before which, or any two or more justices by whom such child is so convicted may, in lieu of any sentence of imprisonment, order such child to be committed, if apparently over the age of twelve years, or having, in the opinion of such judge, chairman, or justices, been leading an immoral or depraved life, to a Reformatory School, and if apparently under the age of twelve years, and not having, in the opinion of such judge, chairman, or justices, been leading an immoral or depraved life, to the care of the Department for Neglected Children. The Court may, however, under the special circumstances of any case, order any child apparently over the age of twelve years, and not having, in their opinion, been leading an immoral or depraved life, to be committed to the care of the Department for Neglected Children instead of to a Reformatory.

When any child, apparently under the age of eighteen

years is confined in any gaol under sentence of imprisonment, it shall be the duty of the Inspector-General of Penal Establishments to consult with the Secretary, and consider whether such child could be properly transferred to a Reformatory School; and if the Inspector-General and Secretary concur that such child should be transferred to a Reformatory School, they may jointly report to the Minister to that effect, naming the School to which, in their opinion, such child could be properly transferred, and accompanying their report by a full record of such child; and the Minister shall transmit such report and record to the superintendent or matron of the School, who shall make their remarks thereon and return it to the Minister, who shall lay such report and record, together with the remarks of the superintendent or matron, before the Governor in Council, who may, if it seem fit, order that the child be transferred to such Reformatory School.

Subject to the regulations of the Governor in Council, every ward of the Department for Reformatory Schools may, from time to time, be dealt with by the superintendent or matron in one or other of the following ways:—

- (1) Detained in the Reformatory School.
- (2) Transferred, with the approval of the Minister, to some other Reformatory School . . .
- (3) Transferred, with the approval of the Minister, to the care of the Department for Neglected Children.
- (4) Placed at service with some suitable person.
- (5) Apprenticed to some trade, either on land or at sea.
- (6) Placed in the custody of some suitable person who has given a bond, with or without sureties, in the form prescribed by the regulations of the Governor in Council, conditioned for the good behaviour of such ward.

UNITED STATES OF AMERICA

NEW YORK STATE REFORMATORY LAW

Penal Code, § 700

A MALE between the ages of sixteen and thirty convicted of a felony, who has not theretofore been convicted of a crime punishable by imprisonment in a State prison, may, in the discretion of the trial Court, be sentenced to imprisonment in the New York State Reformatory at Elmira, to be there confined under the provisions of law relating to that Reformatory.

Laws of 1887, Chapter 711, § 9

Any person who shall be convicted of an offence punishable by imprisonment in the New York State Reformatory and who, upon such conviction, shall be sentenced to imprisonment therein, shall be imprisoned according to this Act, and not otherwise, and the Courts of this State imposing such sentence shall not fix or limit the duration thereof. The term of such imprisonment of any person so convicted and sentenced shall be terminated by the managers of the Reformatory as authorised by this Act, but such imprisonment shall not exceed the maximum term provided by law for the crime for which the prisoner was convicted and sentenced.

Laws of 1900, Chapter 378, §§ 20, 21, 24

§ 20. The board of managers of such Reformatory may allow any prisoner confined therein to go upon parole outside of the Reformatory buildings and enclosures pursuant to the rules of the board of managers. A person so paroled shall remain in the legal custody and under the control of the board until his absolute discharge as provided by law.

§ 21. If the board of managers have reasonable cause to believe that a paroled prisoner has violated the conditions of his parole the board may issue its warrant, certified by its secretary, for the taking of such prisoner at any time prior to his absolute discharge. Such warrant or warrants may be issued to an officer of the Reformatory or to any police officer of the State, who shall execute the same by taking such prisoner into custody within the time specified in the warrant. Thereupon such officer shall return such prisoner to the Reformatory, where he may be retained for the remainder of the maximum time provided by law.

§ 24. When it appears to the board of managers that there is a strong or reasonable probability that any prisoner will remain at liberty without violating the law, and that his release is not incompatible with the welfare of society, they shall issue to such prisoner an absolute release or discharge from imprisonment.

NEW YORK STATE REFORMATORY AT ELMIRA.
THIRTEENTH ANNUAL REPORT, 1906

"The State Courts, in their discretion, may send here, under an indeterminate sentence, any male felon between the ages of sixteen and thirty who has not before served a term in a State prison. Though popularly described as 'first offenders,' many of these prisoners are not so in fact. Some have previously served terms for felony in penitentiaries and jails, and nearly half have been in

other institutions, and still others have been convicted of offences against the criminal law for which fines were imposed. . . .

"The Courts have sentenced these men to imprisonment to remove them for the time being from society, to the welfare of which their acts have shown them to be a menace. The Reformatory rather than a State prison has been selected as the place of imprisonment on the theory that there is possibly enough good in them to justify the hope that they can be changed so as to cease to be a burden on the public by becoming law-abiding and self-supporting citizens.

"Bringing about such a change is our commission.

"Punishment for some particular crime they all receive, in that such crime leads to the restraint of their liberties while they are in the institution. This, however, is but an incident.

"We are not asked to consider the past, but only the future. The commitment papers give us no information as to the circumstances of their misdeeds, and no suggestion as to how long they should be confined. We are by statute expressly permitted, in our discretion, to 'allow any prisoner to go upon parole outside the Reformatory buildings and enclosures,' and to give 'an absolute release or discharge from imprisonment' when it appears 'that there is a strong or reasonable probability that any prisoner will remain at liberty without violating the law.' Conversely, with certain limitations . . . we are expected to keep them until they are educated, trained, and reformed so as to stand this test.

"The institution is therefore primarily a great school.

" . . . We do not find anything mysterious or distinctive about the ordinary criminal. He is thoroughly commonplace, so the education and training he requires does not differ materially from that which would be good for the ordinary man.

"We have discovered no alchemy for turning base metals into gold, nor any different methods for making

'good citizens than those which prevail in the best public and private schools for free men. Superintendent Scott, before the National Prison Congress last year, thus, in a few words, summed up the principle under which he works: 'The best method for the reformation of criminals is to subject them to a system of discipline and training which is found essential to the training of the normal youth to correct moral and social living.'

"We try to develop what good natural qualities, physical, mental, and moral, they may possess, and add new ones, and to make them masters of themselves so they may keep evil impulses in check.

"The particular crime for which he was sentenced, considered by itself, throws little light on the question what treatment a prisoner needs. It seldom happens that a man goes wrong suddenly. Usually there is something radically wrong about him long before he becomes technically a criminal. The crime of burglary, grand larceny, or forgery, as the case may be, followed naturally enough from what had gone before. We therefore, prior to assigning him his work in the institution, find out all we can about his ancestry, environment, associations, education, habits of life, attainments, and physical and mental condition.

"These usually show very plainly why he became a criminal, and suggest how the cure must come, if cure be possible.

"As a general principle it can be said that if a man does not earn enough to support himself and those dependent on him, he has to beg or steal, in either case becoming a burden on the community. He cannot earn living wages unless he knows how to do something which will command them. In the lowest grades there is seldom enough work to go around, and in the competition the poorest qualified labourers remain idle, and the prison or the poorhouse is their natural destination.

"It is also a fundamental truth that, other things being equal, a man who has been a convict is at a

disadvantage in securing and retaining work. If a man does not raise his industrial grade while in confinement, he will find himself on his release worse off than before.

"The statistics show that a very large proportion of the Reformatory population are at the very bottom in the industrial scale. Unless they can be raised there is little hope for their remaining honest.

". . . Hundreds of men each year go out of the institution with their earning capacity doubled even if they have not become skilled workmen. This also, we find, powerfully makes for righteousness.

"Systematic physical exercise and enforced regular habits enable nearly every inmate to leave the institution a sounder and stronger man physically than when he entered, and thus better equipped for the battle of life.

"Military drill, long continued, makes neatness, order, and respect for law and authority habitual.

"It may be said in criticism that these things affect only the physical and mental sides of their natures, and that what these young fellows need is moral improvement.

"It is true that the ordinary prisoner at the start earnestly applies himself to these things without any love for any of them, and simply because he is told that only by a certain record of proficiency in them can he gain his freedom, but in the doing there comes in time a development of that indescribable thing that we call character, and everything comes to be looked at from a different and better point of view. He acquires the power of concentrated and persistent effort, changes his aims and ambitions, and becomes receptive to the more direct moral influences of the institution. . . .

". . . When we become convinced by upward of a year's observation that a man fully intends to live an honest life and has a fair equipment for it, we grant him a parole and allow him to try his good resolutions in the outside world, keeping him under supervision for at least six

months, and bringing him back to the institution if he shows signs of relapse.

"All do not stand the test. A gratifying proportion, however, do well, and subsequently gain their absolute releases, which means that, in our opinion, they have again become a part of the community with which the administrators of the criminal law have no concern. . . .

" . . . Under the old-fashioned punitive system the idea was to grade crimes and grade punishments to fit them which would make the offender suffer enough so that he would not *dare* to commit that offence again. Under the modern reformatory system an effort is made to train him so that he will not *wish* to commit crime again. . . .

" . . . The State shuts up many of the insane for much the same reason that it does the criminal—that is, self-protection—and does not release them from hospitals and asylums until it is thought that they are cured. .

"We believe that the same rule should be applied to a morally diseased person who is committed to a Reformatory, and that he should not be allowed to go outside the Reformatory building and enclosures until he has done something to indicate that he may perhaps safely be restored to society, and that after his return to society he should continue on probation under State supervision and control.

"The so-called 'indeterminate' sentence aids in accomplishing this, but so long as a maximum is fixed it is not truly 'indeterminate,' and if that maximum is short, its object in many cases . . . is defeated."

The record of men released on parole in 1904, compiled from nine to twenty-one months after their discharge, is as follows :—

	Number.	Total.	Per cent.	Total per cent.
<i>Number paroled</i>	695			
Absolutely released	533		76.8	
Still making good reports	8		1.2	
In foreign countries	2		.3	
<i>Conduct satisfactory</i>		543		78.3
Returned for violation of parole	53		7.7	
Not apprehended	65		9.2	
Maximum time expired while on parole	5		.7	
<i>Conduct on parole more or less unsatisfactory</i>		123		17.6
In other prisons	24		3.4	
Back here on new charge	5		.7	
<i>Returned to crime</i>		29		4.1

During 1905, 830 were paroled, of whom 85 per cent are "apparently reformed," and 2.5 per cent have "returned to crime." It is usually found that those who are going to do wrong again do so quite promptly.

The cost per head at some of the American Reformatories for persons between sixteen and twenty-five or thirty is:—

Minnesota State Reformatory	\$314.14
Colorado	301.85
Massachusetts	237.69
New York	175.93
Ohio	168.75
Indiana	149.28

Extract from a Letter from an ex-Inmate of Elmira Reformatory

" . . . You can plainly see the fix I would be in if I had not mastered shorthand. There has always been a doubt in my mind that I could have learned it had I tried to do so while in free life. It was the fact that I was

compelled to apply my mind to it, or take the consequences, that was the 'force' behind my learning it. I think this applies to a great many other trades. Under the conditions at your institution the pupil is simply compelled to master what he is capable of learning. Perhaps at the very outset he don't want to, but as he realises his position he gradually makes up his mind that he will, not that he will use it when he again is free, but simply because it will lead to his freedom so much quicker. When he is free, and finds that he has got something to fall back on, he is generally mighty glad that he did learn his trade. This seldom dawns on his mind when he is a prisoner."

The following are representative documents:—

UTAH STATE PRISON

Rules for Grading Prisoners

1. Inmates of the Utah State Prison will be placed in three grades. . . .

2. Each prisoner committed to the prison will enter the second grade, and may be promoted by the warden for being obedient, attentive, industrious, and studious for three consecutive months, and who has not been reprimanded or reported during that time.

3. The warden may reduce prisoners from the first to the second or third grade. . . .

5. Prisoners will not be paroled except from the first grade. . . .

Rules for Paroling Prisoners

1. No prisoner will be paroled who has not been in the first grade continuously for a period of at least three months. . . .

2. No prisoner will be released on parole until satis-

factory evidence is furnished the board in writing that employment has been secured from some responsible person. . . .

3. No person will be paroled until the board of correction are satisfied that he will conform to the rules and regulations of his parole.

4. Every paroled prisoner will be liable to be retaken and again confined within the enclosure of said institution for any reason that shall be satisfactory to the board, and at their sole discretion, and will remain therein until released by law.

5. It will require the affirmative vote of all members of the board to grant a parole. . . .

COPY OF EMPLOYMENT AGREEMENT

To the Board of Managers,
 Pennsylvania Industrial Reformatory,
 Huntingdon.

GENTLEMEN—I, _____, at present engaged in the _____ business at _____, hereby declare my willingness to take into my employment, and if his conduct is satisfactory, to continue in my employment until he receives his final discharge (which will not be less than seven months from the date of his parole), _____, No. _____, at present an inmate of the Pennsylvania Industrial Reformatory; and I agree to pay the said _____ the sum of \$ _____ per _____ for his services *(state whether this includes his board or not)*.

I also agree to take a friendly interest in the said person, to counsel and direct him in that which is good, and that I will promptly report to the management of the Reformatory any unnecessary absence from work, any tendency to low or evil associations, or any violations of the conditions of his parole; and I will see that he forwards his monthly report to the general superintendent of the Reformatory on the first of each month, and will certify to its being correct.

A certificate of acquaintance with the proposed employer and belief in his fitness, etc., must be signed by one known to be occupying an official position or known to one or more members of the board of managers as a reputable and reliable citizen.

LETTER SENT WITH EMPLOYMENT AGREEMENT TO PROPOSED EMPLOYER

. . . Before he can obtain his release on parole he must obtain employment at some legitimate work whereby he may be able to maintain himself properly for at least six months from the date of his parole, and until such time as he receives his final discharge, which will be granted him by our board of managers.

In case he finds it desirable to change his employment or residence, he shall first obtain the written consent of the board of managers through the general superintendent of said Reformatory.

He shall on the first day of each month until his final release, write the general superintendent of said Reformatory a report of himself. . . .

. . . He shall while on parole remain in the legal custody and under the control of said board.

He shall be liable to be retaken and again confined within the enclosure of said Reformatory for any reason that shall be satisfactory to the board of managers, and at their sole discretion, until he receives written notice from the general superintendent that his final release has been ordered by the Court which sentenced him to the Reformatory.

The management of said Reformatory has a lively interest in the subject of this parole, and he need not fear or hesitate freely to communicate with the general superintendent in case he loses his situation or becomes unable to labour by reason of sickness or otherwise.

MONTHLY REPORT

Of , No. . Paroled

To

Warden, Minnesota State Prison.

1. By whom have you been employed the past month?
2. At what kind of work?
3. How many days have you worked?
4. What has been your wages per day or month?
5. How much of your earnings have you expended, and for what?
6. How much money have you now on hand or due you?
7. If you have been idle during any portion of the month, state why.
8. Are you satisfied with your present employment? If not, why not?
9. Where do you spend your evenings?
10. Do you attend church?
11. Have you used tobacco?
12. Have you used intoxicating liquor?
13. State what books, papers, or magazines you have read.
14. Have you attended any public meeting, dances, picnics, or parties during the month? If so, where and when?
15. State in a general way your surroundings and prospects.
16. Have you had any trouble or misunderstanding with any one? If so, state full particulars.

Remarks.

Dated at

, Minn., this

day of.

STATEMENT OF EMPLOYER

I have read the above statements of paroled prisoner, and certify that to the best of my knowledge they are true.

Countersigned,

THE PRISON AND YOUNG OFFENDERS

"I SAY, unhesitatingly, that if a society for the manufacture of criminals were set on foot, that society could in no better way further its aims than by pressing for the imprisonment of every little boy and girl who could, on any decent pretext, be brought before a bench of magistrates. Prison officials well know the hardening influence of gaol life on the young, and statistics show how unlikely it is that the first term of imprisonment will be the last in the case of children of tender years. They learn the secret which should jealously be kept from them—that a short imprisonment is, after all, no such very terrible punishment."—REV. C. GOLDNEY, Prison Chaplain.

"The real cause of recidivism lies in the perversion due to such infection-nests as the Lyons prison is. I suppose that to lock up hundreds of boys in such infection-nests is surely to commit a crime much worse than any of those committed by any of the convicts themselves."—PRINCE KRAPOTKINE, *In Russian and French Prisons*, 1887.

"The prison, as it is organised, is a sewer throwing out into society a continuous flood of purulence, the germs of physiological and moral contagion. It poisons, brutalises, depresses, and corrupts. It is a manufactory at once of the phthisical, the insane, and the criminal."—M. ÉMILE GAUTIER, *Le Monde des Prisons*, 1888.

"The prison is still the best school of crime which we possess."—Dr. PAUL AUBRY, *Le Contagion au Meurtre*.

"I have seen young men enter the Grande Roquette guilty, but not corrupted, who went out decided to commit crimes which a few months before they would have regarded with horror."—ABBÉ MOREAU.

Lord Coleridge is reported as saying, in 1885, that "there were few things more frequently borne in upon a judge's mind than the little good he could do the criminal by the sentence he imposed. These sentences often did nothing but unmixed harm, though he was sure that throughout the country the greatest pains had been taken to make our prisons as useful as possible in the way of being Reformatories. But, as a matter of fact, they were not so."

The above are quoted by Mr. Havelock Ellis, in *The Criminal*. He himself writes: "The prison is an incubator for those who are young in crime, a place of torture for those who possess the finer feelings of humanity, that is precisely the class of people, usually, who ought not to be sent to prison; but to habitual offenders, the confirmed recidivists, precisely the class of people on whom the prison ought to work as at once a reforming and deterring influence, it is simply a welcome and comfortable home. It is a well-known fact that the prison is preferred to the workhouse."

THE FAILURE OF PRISON TREATMENT

“‘WHY are our prisons failures?’ asks Mr. Horsley, who is as impressed as much as any one by the material progress of prisons. ‘Men are asking, and will more loudly ask, Why are our prisons such utter failures? In the face of the phenomena of recidivism, and men and women with hundreds of convictions, it is absurd to imagine that they are as deterrent as they should be.’ The prisoner is, he points out, but temporarily suspended from habits of crime by circumstances not under his own control: ‘He may even boast of his intentions, but out he must go, with as much safety to the State as if all mad dogs were muzzled for twenty-four hours and then all unmuzzled, because it had been found that in that period a certain proportion ceased to be dangerous; or as if all smallpox patients were discharged from hospital so many weeks after reception, whether cured or not.’”

“The key to the failure of the prison, and a chief clue in its reform, lies in the system of administering definite and predetermined sentences by judges who, being ignorant of the nature of the individual before them, and therefore of the effect of the sentence upon him, and of its justice, are really incompetent to judge. . . . Of long sentences . . . the justice . . . it is obvious, must be quite a matter of chance. But the short-term imprisonments reveal quite as clearly the inadequacy of the system. The newspapers constantly tell of old

offenders who have been in prison for over a hundred short periods."

"Thrusting a man into prison, when everything is said, is a measure only to be taken with the utmost circumspection, after consideration of the individual's antecedents and a clear conception of the ends to be attained by imprisoning him. To relegate almost indiscriminately to prison the miscellaneous army that file through a police-court is an ignorant and dangerous policy; there is little hope of good result, and a considerable chance of evil result. If the period is for a few weeks only no permanent beneficial end can be anticipated, even under the best of conditions; while during so short a period no useful work can be commenced, so that there is a direct incitement to idleness. When the prison has been decided on, the period of detention must be indefinite, according to the results obtained in the opinion of those competent officers specially appointed to form such decisions, and the liberation will be conditional.

"It is a wholesome sign of progress that in so many European countries substitutes for the prison, in the case of minor offenders, are being anxiously sought and gradually adopted."—HAVELOCK ELLIS, *The Criminal*, 1901, pp. 306, 319-20, 343-4.

DESIRABILITY OF EXTENDING AGE OF ADMISSION TO REFORMATORY SCHOOLS

"If Hooliganism is to be successfully dealt with, not only must the full benefit of the existing law be brought to bear upon the rising generation of such a type, as a matter of prevention, but it is necessary to grapple with those who are older in disorder and crime, and who cannot be brought under Reformatory influence without an extension of the age of admission to these schools. It has been urged for several years that power should be given to commit lads to suitable selected schools up to eighteen years of age, and to retain them till twenty-one, and this was very strongly recommended by the last Prison Commission after hearing a great deal of expert evidence on the subject.

"Let it be noted that only in this way shall we fairly face the most difficult problem of juvenile crime, and the matter is becoming more and more pressing for solution. We are told on good authority that one-third of all burglars are boys from sixteen to twenty-one, that the proportion of criminals from sixteen to twenty-one is increasing in England, and is higher than at any other age, being nearly (sometimes over) a fifth of the total. While one-fourth of all the convictions for larceny are against juveniles under sixteen, twenty per cent of crimes against morals are committed by those under twenty-one. Why not include these cases in Reformatory work?"—*The Nineteenth Century*, January 1901; "Hooliganism," John Trevarthen (of the Farm School, Redhill).

"It is incontrovertibly established in our experience that the longer terms of detention showed the best results afterwards, i.e. boys with four years' training turned out much better than those with three years only, and those with five years better than those for four years. We have always urged that the longest term possible should be given in all cases, for we can shorten it if it is not necessary to keep the lad. So we feel that the age limit of nineteen instead of twenty-one, as formerly, was a distinctly retrograde step, and ought to be altered back again. All we want is the opportunity to do our work thoroughly, and that is often impossible when a really bad lad comes in at sixteen and must perforce leave at nineteen.

"I beg to move, 'That in the opinion of this Congress it is desirable that cases up to eighteen years of age should be admissible to Reformatories; that in the older cases the term should extend to twenty-one years of age, and in others to the extent of five years, subject to license in the manager's discretion when qualified for earlier discharge.'—The Third International Congress for the Welfare and Protection of Children, 1902; "Reformatory and Preventive Work," John Trevarthen.

CELLULAR CONFINEMENT

" . . . CELLULAR confinement is a curious monument of human perversity. . . . To suppose that it will tend to make the criminal a reasonable human being is as rational as to suppose that it will tend to make him a soldier or a sailor, a doctor or a clergyman. The mistake here is the old one that has vitiated so much of human action where the criminal is concerned—the mistake, that is, of supposing that at all points he is an average human being. . . . Turn to the vacuous-minded, erratic, and animal person who is usually the criminal. Solitude produces in him . . . no intellectual activity, and no searching of conscience; it seems merely to deepen his mental vacuity . . . the cell excludes all the bracing influences of struggle; the morality of the cell is submission, punctuality, quietness, politeness to warders. A moral life shut up in such a frame has nothing in common with social morality"—HARVEY ELLIS, *The Criminal*, pp. 328-9.

Cf. *Elmira Year-Book*, 1892:—"The more nearly the life of the prisoner approaches in its conditions that of the free citizen, the closer is the test . . . of his fitness to assume again a position among free men. That system which cultivates in the prisoner the same habits, which appeals to the same motives, and awakes in him the same ambitions that belong to the free citizen, is best calculated to reform him."

‘ CHILDREN’S COURTS AND CHILDREN’S PROBATION-OFFICERS ’

“Es ist selbstverständlich, dass auch die Stellung des Richters zu den Straffällen der Jugend eine andere wird als bisher. Wenn er die richtige Auswahl unter den Massregeln treffen soll, die er möglicherweise verhängen kann, muss er die Einrichtungen, die in Frage kommen können, also vor allem die Anstalten, kennen und beobachtet haben. Seine Vorbildung zu einem Amte, das richterliche und vormundschaftliche Funktionen in sich schliesst, wird teilweise eine andere sein müssen als unter den heutigen Verhältnissen, in denen der Richter Strafen verhängt, die er oft weder in ihrer Strenge noch in ihrer Wirkung auf Körper und Geist des Verurteilten abzu-schätzen im stande ist.”—BAERNREITHER, p. xliii.

As a matter of course, also, the attitude of the judge to the delinquencies of youth will be different to what it has hitherto been. If he is to make the right choice amongst the measures possible for him to adopt, he must know and have studied the arrangements which can come in question, i.e. above all the institutions. His preparatory training for an office which combines in itself the functions of judge and guardian must, in part, be other than it is under present conditions, in which the judge inflicts penalties the severity of which, and their effect on the body and mind of the condemned, he is often not in a position to estimate.

Cf. also *Report on the Juvenile Court in Milwaukee* (Wisconsin) by Bert Hall, Probation-Officer of the Court:—“The Juvenile Court is in session one half-day each week—Wednesday afternoon. The rest of Judge Neelen’s time is devoted to the consideration of the usual cases that come before a police magistrate. Many of those who have watched the working of the Court feel that it is practically impossible for a judge who devotes so much of his time to the contemplation of the offences of the most depraved criminals to be in the correct frame of mind for the consideration of the proper disposition of the cases of juvenile violators of the law. They feel that it would be much better if the cases could be heard in some place outside of the Criminal Court and by a judge who is not engaged in hearing criminal cases.”

AN ACT CONCERNING DELINQUENT CHILDREN

Be it enacted by the General Assembly of the State of Colorado:—

§ 1. This Act shall apply only to children sixteen (16) years of age or under, not inmates of a State institution or any institution incorporated under the laws of the State for the care and correction of delinquent children. The words “*delinquent child*” shall include any child sixteen (16) years of age or under such age who violates any law of this State; or who is incorrigible; or who knowingly associates with thieves, vicious, or immoral persons; or who is growing up in idleness or crime, etc., etc.

§ 2. The County Courts of the several counties in this State shall have jurisdiction in all cases coming within the terms and provisions of this Act. In trials under this Act the child informed against, or any person interested in such child, shall have the right to demand a trial by jury, which shall be granted as in other cases unless waived, or the judge of his own motion may call a jury to try any such case. . . .

§ 8. The County Courts of the several counties in this State shall have authority to appoint or designate one or more discreet persons of good moral character to serve as *probation-officers* during the pleasure of the Court; said *probation-officers* to receive no compensation from the county treasury, except as herein provided. In case a *probation-officer* shall be appointed by the Court, it shall be the duty of the Clerk of the Court, if practicable, to notify the said *probation-officer* when any child is to be brought before the Court; it shall be the duty of such *probation-officer* to make investigation of such case; to be present in Court to represent the interests of the child when the case is heard; to furnish to the Court such information and assistance as the Court or Judge may require, and to take charge of any child before and after the trial, as may be directed by the Court.

§ 9. In any case of a delinquent child coming under the provisions of this Act, the Court may continue the hearing from time to time, and may commit the child to the care of a *probation-officer*, and may allow said child to remain in its own home, subject to the visitation of the *probation-officer*; such child to report to the Court or *probation-officer* as often as may be required, and subject to be returned to the Court for further proceedings whenever such action may appear necessary; or the Court may cause the child to be placed in a suitable family home, subject to the friendly supervision of the *probation-officer* and the further order of the Court; or it may authorise the child to be boarded out in some suitable family home, in case provision is made by voluntary contribution or otherwise for the payment of the board of such child, until suitable provision be made for the child in a home without such payments; or the Court may commit such child, if a boy, to the State Industrial School for Boys, or, if a girl, to the State Industrial School for Girls; or the Court may commit the child to any institution within the county, incorporated under the laws of this State, that may care for children, or which may be provided by

State or county, suitable for the care of such children, or to any State institution which may now or hereafter be established for the care of boys or girls. In no case shall a child proceeded against under the provisions of this Act be committed beyond the age of twenty-one.

A child committed to any such institution shall be subject to the control of the board of managers, and the said board shall have power to parole such child on such conditions as it may prescribe; and the Court shall, on the recommendation of the board, have power to discharge such child from custody whenever, in the judgment of the Court, his or her reformation is complete; or the Court may commit the child to the care and custody of some association that will receive it, embracing in its objects the care of neglected or delinquent children, and which has been duly credited as herein provided.

§ 12. This Act shall be liberally construed, to the end that its purpose may be carried out, to wit, that the care and custody and discipline of the child shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable any delinquent child shall be treated, not as a criminal, but as misdirected and misguided, and needing aid, encouragement, help, and assistance.

AN ACT TO PROVIDE FOR THE PUNISHMENT OF PERSONS RESPONSIBLE FOR OR CONTRIBUTING TO THE DELINQUENCY OF CHILDREN.

Be it enacted by the General Assembly of the State of Colorado:—

§ 1. In all cases where any child shall be a delinquent child or a juvenile delinquent person, as defined by the statute of this State, the parent or parents, legal guardian or person having the custody of such child, or any other person, responsible for, or by any act encouraging, causing, or contributing to the delinquency of such child, shall be guilty of a misdemeanour, and upon trial and conviction

thereof shall be fined in a sum not to exceed one thousand dollars (\$1000), or imprisoned in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment. The Court may impose conditions upon any person found guilty under this Act, and so long as such person shall comply therewith to the satisfaction of the Court the sentence imposed may be suspended.

AN ACT TO CONFER ORIGINAL JURISDICTION UPON COUNTY COURTS IN ALL CRIMINAL CASES AGAINST MINORS

Be it enacted by the General Assembly of the State of Colorado:—

§ 9. *All minors found guilty in the County Court of any violation of any law of this State, or of any crime, may be subjected by such Court to any of the terms and conditions of the probation system provided for in cases of delinquent children by the statute of this State, if in the opinion of the judge of such Court it may be wise or proper; subject, however, to the provisions and limitations of this Act.*

§ 10. *When any minor above the age of sixteen (16) years shall be found guilty in the County Court of a violation of any law of this State, or any crime, after pronouncing sentence the judge may stay the execution of the sentence, conditioned upon the good behaviour and satisfactory conduct of such minor under such conditions as the Court may prescribe. If at any time during the stay of execution of the sentence it shall be made to appear to the satisfaction of the Court that the sentence ought to be enforced, the Court shall have the power to revoke the stay of execution and enforce the sentence immediately, and the term of such sentence shall commence from the date upon which the same is ordered to be enforced. No such execution shall be stayed to exceed a period of two years, and if at the expiration of the stay of execution, or at such time prior thereto as the*

Court may deem proper, it shall appear to the satisfaction of the Court that such person has complied faithfully with the conditions of his probation, the Court may suspend such sentence absolutely, in which case such person shall be relieved therefrom.

§ 11. Each person released upon probation as aforesaid shall be furnished by the Court with a written statement of the terms and conditions of his release. Each probation-officer shall keep full records of all cases investigated by him and of all cases placed in his care by the Court, and of any other duties performed by him under this Act.

PROBATION AND PROBATION-OFFICERS

REPORT OF THE PROBATION COMMISSION OF THE STATE OF NEW YORK, 1906

Court of Special Sessions in the Boroughs of Manhattan and the Bronx

PP. 15-17.—If the report of the probation-officer as to the previous record of a convicted offender is unfavourable, he may be committed to a penal institution forthwith. If the report indicates to the Court that the prisoner may properly be released under suspended sentence, and under the over-sight of a probation-officer, he is released, as it is termed, “on parole.” If the report is of such a character that the Court considers probationary oversight unnecessary, sentence is suspended without any probationary oversight.

When the offender is released “on parole,” it is for a period of one month. During this month the probation-officer is expected to become fully acquainted with the home surroundings, occupation, and habits of the prisoner. The offender is required to report once a week, or occasionally less frequently, to the probation-officer.

If the probationer violates the terms of his release, or commits a new offence, or refuses to report, these facts are reported to the judge, and a warrant is issued for his arrest.

If the probationer's conduct is favourable, a report is made to the judge at the end of the month. The Court

then either continues the period of "parole" for another month, or releases the offender, as it is then termed, "on probation," for a period of one year, or suspends sentence indefinitely. . . .

. . . During the period of "probation" about the same degree of oversight is exercised by the probation-officer as during the period of "parole," except that probationers are required to report in person less frequently, usually at periods ranging from two weeks to a month.

At the end of a year of "probation" the prisoner's conduct is reported by the probation-officer to the Court, and, if it has been satisfactory, sentence is then suspended indefinitely, and probationary oversight ceases.

Thus there may be three stages in the treatment of the offender released under suspended sentence in this Court:—

First: the period of "parole." . . .

• Second: the period of "probation." . . .

Third: the period of indefinite suspension of sentence. . . .

• If, in the judgment of the Court, the circumstances justify it, the second stage, or both the first and the second stages, are omitted.

• Pp. 68-9.—The Commission is of the opinion that there is not likely to be an effective probation system in any city unless and until there is a considerable body of public opinion informed as to the meaning and value of probation, and a number of citizens who are willing to become publicly identified with, and responsible for, such work; who in turn will create and extend public opinion in its favour, demand higher and higher standards in its administration, and protect it from improper influences. It is not a problem which requires primarily administrative capacity, as does the work of most city departments, but is essentially a human problem, involving many delicate and difficult factors, and requiring for its successful development a wide range of knowledge and experience, breadth of view, constant revision of method, and intimate

relations with other agencies for social improvement in each locality. For these reasons the Commission regards as its most important recommendation the suggestion that in each city of the first and second classes there shall be appointed an unpaid board of probation commissioners, who shall have substantially the powers of a board of directors in relation to probation-officers and probation work. In such a board, we are convinced, there will be found the required combination of organisation and flexibility, with opportunity for necessary growth.

Pp. 61-2.—The probation system may easily become so attenuated as to be of little value. If the probation-officer has an excessively large number of persons under his care, and consequently does not keep informed in regard to their conduct and habits, if he fails to visit them at their homes or places of employment, and relies solely upon their occasional visits to him, or even, as in some cases, on written reports or information that may reach him accidentally, it is evident that probation has lost its meaning, and that we cannot expect it to effect any change in the point of view or habits of the offender. The returns from the probation system in the form of actual improvement or reformation in the habits and character of the offenders will be in strict proportion to the amount of intelligence, energy, thought, time, care, personal influence, and moral suasion put into the probation work by those who administer it.

The probationary oversight of juvenile offenders should include full knowledge of all the important factors in the child's life affecting his conduct. It should certainly include full knowledge of his home surroundings; of the training received in the home; of his attendance at school and his aptitude shown in his school work; of his forms of recreation; of his religious training. It should also include that which is very frequently overlooked, but is, nevertheless, of the highest importance—a careful physical examination of the child by a competent physician. Such

an examination will often bring to light defect of the senses, or other abnormal physical conditions easily susceptible of remedy, which have a marked bearing, if not a determining effect, upon the child's conduct.

P. 75.—In the opinion of the Commission it is unsafe to rely upon salaried probation-officers provided by private organisations, as a permanent and sufficient form of organisation. . . .

There are certain disadvantages in the use of probation-officers receiving salaries from private organisations. Such officers are not fully responsible to the Court; their time is not so completely at the service of the Court; . . . they are liable to be drawn upon for other work, and in such cases must feel their first responsibility to the society which provides their salaries.

P. 56.—The Protestant agent first appointed . . . had other important duties to which he owed his first allegiance. The Protestant officer next appointed also continued his duties as a missionary, and, in our opinion, did not possess all of the personal qualifications needed for effective probation work, though the excellence of his intentions and his usefulness as a missionary are not questioned.

Pp. 42, 43.—The probation system has another and important value to the community in its economy. . . . The actual saving in dollars and cents by reducing the number of persons committed to penal institutions . . . is no inconsiderable item. . . . This is, to be sure, a strictly incidental benefit. We would never advocate the adoption of the probation system for this reason alone, but in this case, fortunately, the course which is indicated as best for a considerable number of convicted offenders is also the course which is the most considerate of the taxpayer.

Compare with this:—

Wollte man an den hohen Kosten, welche die Fürsorgeerziehung verursacht, Anstoss nehmen—rund 6 Millionen Mark—so kann man wohl fragen, welchen Schaden würden 25,000 gesellschaftsfeindliche und gefährliche Menschen im Laufe ihres Lebens anrichten? Die Rechnung würde sicher ergeben, dass die Fürsorgeerziehung auch finanziell kein schlechtes Geschäft ist. —*Statistik über die Fürsorgeerziehung*, 1906, p. xxxv.

If anybody raises objection to the high cost of Guardianship-Education—roughly, six million marks (= £300,000)—one may well ask, what harm would 25,000 dangerous enemies of society accomplish in the course of their lives? The result of the calculation would certainly be to show that financially also Guardianship-Education is no bad speculation.

Compare also:—

“A temporary seclusion from the possibility of doing mischief, till a reasonable proof is given of true repentance, is the object we are seeking; if this expedient also comprehends the preservation of the subject to the State, can it cost too high a price? But if it shall appear to be in the issue considerably the cheapest method, can it be opposed?”—JAMES HANWAY, *Distributive Justice and Mercy*, 1781, quoted by Havelock Ellis.

In the State of Massachusetts, when a person is dismissed on probation, a card, inscribed as follows, is given to him:—

COMMONWEALTH OF MASSACHUSETTS

Date.....

To.....

The Court has placed you on probation, under bonds, to give you an opportunity to reform, without punish-

ment, and the probation-officer has become your bondsman to save you from prison

ON THE FOLLOWING TERMS AND CONDITIONS:

That you diligently pursue some lawful employment.

That you be of good behaviour and keep the peace toward all persons.

That you report to the probation-officer at such times and places as he may require.

That you pay to the Court the costs you have made the county when the Court requires.

That you notify the probation-officer immediately of any change in your address.

If your promise is wilfully violated or neglected, you will be surrendered to the Court for sentence.

. . . Man steuert nicht mehr einer abstrakten moralischen Besserung zu, sondern verfolgt das Ziel praktischer, unmittelbarer, sicherer. Es handelt sich darum, aus dem Verwahrlosten und verbrecherisch Veranlagten vor allem ein *taugliches Individuum* zu machen. . . . Deswegen muss sich die Besserung auf die physische Beschaffenheit so gut erstrecken wie auf die moralische Gesundheit; allgemeine Kenntnisse und die Urteilsfähigkeit müssen dem Individuum ebenso beigebracht werden wie eine bestimmte Fertigkeit, von der in der Zukunft seine wirtschaftliche Existenz abhängt. . . . Das Aufsuchen der Arbeitsgelegenheit, das Anpassen an die Verhältnisse, die Standhaftigkeit gegenüber Versuchungen machen eine Bewährungsfrist notwendig, eine Uebergangszeit, während welcher das Individuum unter einer wohlwollenden aber strengen und unaufhörlichen Ueberwachung stehen muss, bis endlich auch diese letzte Fessel gelöst und es der Gesellschaft als ein voraussichtlich nützliches Arbeitsglied übergeben werden kann. Die Einrichtung dieser Bewährungs- und Uebergangszeit bildet demnach die notwendige Fortsetzung der Anstaltserziehung. — BAERNREITHER, pp. xlii.-xliii.

Translation

It is no longer an abstract moral reformation that is aimed at, but the end is pursued by a more practical, direct, and certain path. Above all, what is wanted is to make of the abandoned and criminally disposed a useful individual. . . . Reformation, therefore, must concern itself as much with his physical constitution as with his moral health; general knowledge and a capacity for judgment must be imparted as well as a certain skill (or promptness) on which his material (economic) existence will depend in the future. . . . The seeking of an opportunity of employment, adaptation to circumstances, steadfastness against temptations, make a period of protection necessary, a period of transition during which the individual must be under kindly but strict and constant supervision, until at last these fetters too are loosed and he can be handed over to society as a presumably useful working member. The organisation, therefore, of this period of protection and transition forms the necessary continuation of education in an institution.

Das Amt des Fürsorgers hat sich, wo es verständnissvoll gehandhabt wird, als eine wesentliche Unterstützung bei der Durchführung des Gesetzes bewährt. Leider aber findet sich nicht bei allen Fürsorgern das genügende Interesse und Verständniss für ihre Aufgaben. Dies gilt namentlich von einem grossen Teil der Geistlichen, es ist deshalb in vielen Fällen von der Bestallung der Geistlichen zu Fürsorgern Abstand genommen worden und es sind andere interessierte Persönlichkeiten zu Fürsorgern gewonnen worden.—*Statistik über die Fürsörgerziehung*, 1906, p. 15.

The functions of the probation-officer where they have been intelligently administered have proved a vital support in carrying out the law. Unfortunately there is not found in all probation-officers sufficient interest and

understanding for their tasks. This is especially applicable to a large proportion of the clergy, and therefore clergymen have in many cases been suspended, and other interested persons appointed as probation-officers.

HUNGARY

Sont libérés conditionnellement, c'est-à-dire, sauf révocation, les pensionnaires ayant moins de 20 ans, qui ont eu une bonne conduite constante et ont, à force de zèle montré à l'école et à l'atelier, appris un métier au point de pouvoir gagner leur vie.

De même que les parents ne sauraient être toujours sûrs du succès de l'éducation, et sont maintes fois obligés d'abandonner leurs enfants mineurs pour les habituer aux luttes de la vie,—la maison de Correction ne peut achever l'éducation et la correction de ses élèves en les laissant toujours dans l'enceinte de l'établissement ; elle les place, pour qu'ils fassent un stage dans le métier choisi par eux et dans le cadre de l'ordre social. Aussitôt qu'ils paraissent corrigés, elle cherche à les placer, à titre d'essai, chez de braves patrons qui compléteront leur éducation.

Ce placement est conditionnel, car il ne comporte pas la rupture des liens qui rattachent l'élève à l'établissement. Si tel élève, affranchi de la discipline sévère, retombe dans ses errements, le directeur peut le rappeler et lui imposer une éducation supplémentaire, à moins qu'il n'ait dépassé l'âge de 20 ans. . . .

On il importe que l'élève conditionnellement libéré ne soit pas abandonné à sa propre force morale ou à un patron qui pourrait diriger son éducation d'une main faible ou maladroite ; il faut que l'élève connaisse dans son entourage une personne à laquelle il pourra demander des conseils paternels, un appui moral, et qui se chargera en même temps de tenir l'établissement au courant des faits et gestes de l'élève, ainsi que des procédés du patron, pour que la Direction puisse prendre les mesures nécessaires. A cet effet elle désigne pour chaque élève

placé dans un endroit plus éloigné un philanthrope qui se charge conformément au Règlement du 6 novembre 1887— de s'intéresser au sort de l'élève et d'être son protecteur.

Le directeur ou le chef de famille compétent visitent eux-mêmes le pensionnaire placé à proximité de l'établissement.

Ce protecteur, auquel on communique tous les antécédents de l'élève, est investi des droits moraux que la Direction exerce à l'égard de l'élève, à cela près, toutefois qu'il ne peut lui infliger des punitions.

La mission du protecteur consiste à donner à cet élève des conseils, à l'exhorter, à le soutenir dans ses efforts faits vers une vie morale et laborieuse, à lui prêcher la patience et l'abnégation. En cas de besoin il protégera le libéré contre les iniquités de son patron ou de tierces personnes; de temps en temps il adressera à la Direction des rapports sur la conduite de son pupille.

La Direction envoie, enfin, au patron des questionnaires imprimés, avec prière de les retourner munis des renseignements demandés.

Grâce à ses rapports la Direction connaît toujours la conduite des élèves qu'elle a libérés.—*La Lutte contre la Criminalité des Mineurs en Hongrie*, pp. 170-2.

Translation

Pupils under twenty years of age whose good conduct has been constant, and who by their zeal in school and workshop have sufficiently mastered a trade to be able to earn their living, are released conditionally, that is to say subject to recall.

Just as parents cannot always be certain of the success of education, and are often obliged to part with their children in order to accustom them to the struggles of life, similarly the House of Correction cannot complete the education and correction of its pupils by keeping them always within the precincts of the institution; it places them out that they may progress in the trade chosen by them and take their place in the order of

society. As soon as they appear reformed, it endeavours to place them on probation with good employers who will complete their education.

This placing-out is *conditional*, for it does not do to break the bonds which attach the pupil to the institution. If any pupil, freed from strict discipline, falls back into the error of his ways, the director can recall him and impose on him a supplementary training, provided he has not passed the age of twenty.

- Now it is important that the conditionally released pupil should not be left to his own moral strength, or to an employer who might direct his education with feeble or unskilful hand; the pupil must know amongst those around him a person from whom he can ask paternal advice, in whom he will find moral support, and who at the same time will undertake to keep the institution informed of the acts and tendencies of the pupil, as well as of the behaviour of his employer, in order that the management may adopt any measures which may be necessary. He therefore appoints for each pupil placed at a distance from the institution a philanthropist who, conformably to the Regulations of November 6, 1887, undertakes to interest himself in the pupil's lot and to be his protector.

The director or the qualified head of the family visits in person the pupils domiciled in the vicinity of the institution.

This protector, to whom are communicated all the antecedents of the pupil, is invested with the moral rights exercised by the management in respect of the pupil, or approximately so, although he cannot inflict punishments.

- The function of the protector is to advise the pupil, to exhort him, to sustain him in his efforts towards a moral and industrious life, to preach to him patience and abnegation. In case of need he will protect him from being wronged by his employer or by a third person; from time to time he will send to the management reports on his conduct.

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In addition, the management sends to the employer printed forms of questions, with a request that he will return them furnished with the required information.

Thanks to these reports, the management always knows the conduct of the pupils liberated.

NUMBER OF PREVIOUS CONVICTIONS AND PRESENT POSITION, APRIL 1906, OF JUVENILE-ADULTS DISCHARGED FROM H.M. PRISON, STRANGWAYS, SINCE APRIL 1905, AND ASSISTED BY METHODS ANALOGOUS TO THOSE ADVOCATED FOR A PROBATION SYSTEM.

Present Position.	Previous Convictions.					Total.	Per cent.
	1.	2.	3.	4.	5 and over.		
Employed	15	9	5	1	5	35	52.5
Unemployed	3	0	0	0	0	3	4.5
Lost sight of	8	2	0	2	5	17	25.5
Reconvicted	1	2	0	1	3	7	10.5
Not followed up	1	0	0	1	0	5	7
TOTALS	31	13	5	5	13	67	

LENGTH AND NUMBER OF SENTENCES AND PRESENT POSITION, APRIL 1906

Present Position.	Previous Convictions.								Totals.	
	Days.				Months.				No. of Convictions.	No. of Lads.
	Under 7 days.	7.	14.	21.	1.	2.	3.	4 and over.		
Employed	5	29	20	2	13	4	1	8	85	35
Unemployed	0	0	1	0	2	1	0	1	5	4
Lost sight of	0	5	25	0	6	0	0	0	47	16
Reconvicted	1	9	7	0	5	1	1	1	25	7
Not followed up	1	0	3	0	4	0	0	0	8	5
TOTALS	7	51	56	2	30	6	5	10	170	67

It may be interesting to note that of the 67 cases dealt with—

21	have been convicted for	Sleeping out.
4	„ „	Begging.
20	„ „	Theft.
3	„ „	Gambling.
10	„ „	Disorderly Behaviour.
5	„ „	Railway Trespass.

And of those now employed—

9	have been convicted for	Sleeping out.
1	„ „	Begging.
13	„ „	Theft.
3	„ „	Gambling.
6	„ „	Disorderly Behaviour.
4	„ „	Railway Trespass.

Of the lads now working—

- 18 are in Private Homes.
- 12 in their Own Homes.
- 1 is in Hospital.
- 1 in the Navy.
- 1 in the Army.
- 1 in the Merchant Service.
- 1 in a Lodging House.

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